

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1528, AS REPORTED
OFFERED BY MR. RANGEL OF NEW YORK

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CON-
2 TENTS.

3 (a) SHORT TITLE.—This Act may be cited as the
4 “Taxpayer and Fairness Protection Act of 2003”.

5 (b) AMENDMENT OF 1986 CODE.—Except as other-
6 wise expressly provided, whenever in this Act an amend-
7 ment or repeal is expressed in terms of an amendment
8 to, or repeal of, a section or other provision, the reference
9 shall be considered to be made to a section or other provi-
10 sion of the Internal Revenue Code of 1986.

11 (c) TABLE OF CONTENTS.—The table of contents for
12 this Act is as follows:

Sec. 1. Short title; reference; table of contents.

TITLE I—ELIMINATION OF ABUSIVE TAX STRATEGIES

Sec. 101. Findings and purpose.

Subtitle A—Tax Shelters

PART I—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

Sec. 111. Clarification of economic substance doctrine.

Sec. 112. Penalty for failing to disclose reportable transaction.

Sec. 113. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.

Sec. 114. Penalty for understatements attributable to transactions lacking economic substance, etc.

Sec. 115. Modifications of substantial understatement penalty for nonreportable transactions.



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- Sec. 116. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
- Sec. 117. Disclosure of reportable transactions.
- Sec. 118. Modifications to penalty for failure to register tax shelters.
- Sec. 119. Modification of penalty for failure to maintain lists of investors.
- Sec. 120. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
- Sec. 121. Understatement of taxpayer's liability by income tax return preparer.
- Sec. 122. Penalty on failure to report interests in foreign financial accounts.
- Sec. 123. Frivolous tax submissions.
- Sec. 124. Regulation of individuals practicing before the Department of Treasury.
- Sec. 125. Penalty on promoters of tax shelters.
- Sec. 126. Statute of limitations for taxable years for which listed transactions not reported.
- Sec. 127. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.

PART II—OTHER PROVISIONS

- Sec. 131. Limitation on transfer or importation of built-in losses.
- Sec. 132. Disallowance of certain partnership loss transfers.
- Sec. 133. No reduction of basis under section 734 in stock held by partnership in corporate partner.
- Sec. 134. Repeal of special rules for FASITS.
- Sec. 135. Expanded disallowance of deduction for interest on convertible debt.
- Sec. 136. Expanded authority to disallow tax benefits under section 269.
- Sec. 137. Modifications of certain rules relating to controlled foreign corporations.
- Sec. 138. Basis for determining loss always reduced by nontaxed portion of dividends.
- Sec. 139. Affirmation of consolidated return regulation authority.

Subtitle B—Prevention of corporate expatriation to avoid United States income tax

- Sec. 151. Prevention of corporate expatriation to avoid United States income tax.

TITLE II—SIMPLIFICATION OF EARNED INCOME TAX CREDIT

- Sec. 201. Simplification of earned income tax credit.
- Sec. 202. Profiling of earned income tax credit beneficiaries.

TITLE III—TAXPAYER PROTECTIONS AND IRS ACCOUNTABILITY

Subtitle A—Penalty and Interest Reforms

- Sec. 301. Failure to pay estimated tax penalty converted to interest charge on accumulated unpaid balance.
- Sec. 302. Abatement of interest.
- Sec. 303. Deposits made to suspend running of interest on potential underpayments.
- Sec. 304. Expansion of interest netting for individuals.
- Sec. 305. Waiver of certain penalties for first-time unintentional minor errors.
- Sec. 306. Frivolous tax submissions.



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Sec. 307. Clarification of application of Federal tax deposit penalty.

Subtitle B—Fairness of Collection Procedures

Sec. 311. Partial payment of tax liability in installment agreements.

Sec. 312. Extension of time for return of property.

Sec. 313. Individuals held harmless on wrongful levy, etc., on individual retirement plan.

Sec. 314. Seven-day threshold on tolling of statute of limitations during tax review.

Sec. 315. Study of liens and levies.

Subtitle C—Tax Administration Reforms

Sec. 331. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.

Sec. 332. Confirmation of authority of tax court to apply doctrine of equitable recoupment.

Sec. 333. Jurisdiction of Tax Court over collection due process cases.

Sec. 334. Office of Chief Counsel review of offers in compromise.

Sec. 335. Access of National Taxpayer Advocate to independent legal counsel.

Sec. 336. Payment of motor fuel excise tax refunds by direct deposit.

Sec. 337. Family business tax simplification.

Sec. 338. Suspension of tax-exempt status of terrorist organizations.

Sec. 339. Tax refund anticipation loans.

Sec. 340. Fairness in tax audit coverage.

Subtitle D—Confidentiality and Disclosure

Sec. 341. Collection activities with respect to joint return disclosable to either spouse based on oral request.

Sec. 342. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.

Sec. 343. Disclosure in judicial or administrative tax proceedings of return and return information of persons who are not party to such proceedings.

Sec. 344. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.

Sec. 345. Compliance by contractors with confidentiality safeguards.

Sec. 346. Higher standards for requests for and consents to disclosure.

Sec. 347. Notice to taxpayer concerning administrative determination of browsing; annual report.

Sec. 348. Expanded disclosure in emergency circumstances.

Sec. 349. Disclosure of taxpayer identity for tax refund purposes.

Sec. 350. Disclosure to State officials of proposed actions related to section 501(c)(3) organizations.

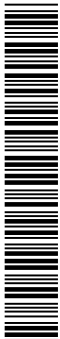
Sec. 351. Confidentiality of taxpayer communications with the Office of the Taxpayer Advocate.

Subtitle E—Miscellaneous

Sec. 361. Clarification of definition of church tax inquiry.

Sec. 362. Expansion of declaratory judgment remedy to tax-exempt organizations.

Sec. 363. Employee misconduct report to include summary of complaints by category.



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- Sec. 364. Annual report on awards of costs and certain fees in administrative and court proceedings.
- Sec. 365. Annual report on abatement of penalties.
- Sec. 366. Better means of communicating with taxpayers.
- Sec. 367. Explanation of statute of limitations and consequences of failure to file.
- Sec. 368. Amendment to Treasury auction reforms.
- Sec. 369. Enrolled agents.
- Sec. 370. Financial management service fees.
- Sec. 371. Extension of Internal Revenue Service user fees.

Subtitle F—Low-Income Taxpayer Clinics

- Sec. 381. Low-income taxpayer clinics.
- Sec. 382. Matching grants to low income return preparation clinics.

TITLE IV—CHILD TAX CREDIT

- Sec. 401. Acceleration of increase in refundability of the child tax credit.
- Sec. 402. Reduction in marriage penalty in child tax credit.
- Sec. 403. Application of EGTRRA sunset to this section.

TITLE V—UNIFORM DEFINITION OF CHILD

- Sec. 501. Uniform definition of child, etc.
- Sec. 502. Modifications of definition of head of household.
- Sec. 503. Modifications of dependent care credit.
- Sec. 504. Modifications of child tax credit.
- Sec. 505. Modifications of earned income credit.
- Sec. 506. Modifications of deduction for personal exemption for dependents.
- Sec. 507. Technical and conforming amendments.
- Sec. 508. Effective date.

TITLE VI—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

- Sec. 601. Exclusion of gain from sale of a principal residence by a member of the Uniformed Services or the Foreign Service.
- Sec. 602. Exclusion from gross income of certain death gratuity payments.
- Sec. 603. Exclusion for amounts received under Department of Defense homeowners assistance program.
- Sec. 604. Expansion of combat zone filing rules to contingency operations.
- Sec. 605. Modification of membership requirement for exemption from tax for certain veterans' organizations.
- Sec. 606. Clarification of the treatment of certain dependent care assistance programs.
- Sec. 607. Clarification relating to exception from additional tax on certain distributions from qualified tuition programs, etc. on account of attendance at military academy.
- Sec. 608. Suspension of tax-exempt status of terrorist organizations.
- Sec. 609. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.
- Sec. 610. Tax relief and assistance for families of Space Shuttle Columbia heroes.

TITLE VII—OTHER PROVISIONS



Sec. 701. Revision of tax rules on expatriation.

Sec. 702. Extension of Customs user fees.

1 **TITLE I—ELIMINATION OF**
2 **ABUSIVE TAX STRATEGIES**

3 **SEC. 101. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—The Congress hereby finds that:

5 (1) Many corporate tax shelter transactions are
6 complicated ways of accomplishing nothing aside
7 from claimed tax benefits, and the legal opinions
8 justifying those transactions take an inappropriately
9 narrow and restrictive view of well-developed court
10 doctrines under which—

11 (A) the taxation of a transaction is deter-
12 mined in accordance with its substance and not
13 merely its form,

14 (B) transactions which have no significant
15 effect on the taxpayer's economic or beneficial
16 interests except for tax benefits are treated as
17 sham transactions and disregarded,

18 (C) transactions involving multiple steps
19 are collapsed when those steps have no substan-
20 tial economic meaning and are merely designed
21 to create tax benefits,

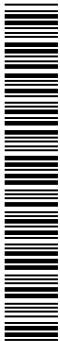
22 (D) transactions with no business purpose
23 are not given effect, and



1 (E) in the absence of a specific congres-
2 sional authorization, it is presumed that Con-
3 gress did not intend a transaction to result in
4 a negative tax where the taxpayer's economic
5 position or rate of return is better after tax
6 than before tax.

7 (2) Permitting aggressive and abusive tax shel-
8 ters not only results in large revenue losses but also
9 undermines voluntary compliance with the Internal
10 Revenue Code of 1986.

11 (b) PURPOSE.—The purpose of this title is to elimi-
12 nate abusive tax shelters by denying tax attributes claimed
13 to arise from transactions that do not meet a heightened
14 economic substance requirement and by repealing the pro-
15 vision that permits legal opinions to be used to avoid pen-
16 alties on tax underpayments resulting from transactions
17 without significant economic substance or business pur-
18 pose.



1 **Subtitle A—Tax Shelters**
2 **Part I—Provisions Designed to**
3 **Curtail Tax Shelters**

4 **SEC. 111. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**
5 **TRINE.**

6 (a) IN GENERAL.—Section 7701 is amended by re-
7 designating subsection (m) as subsection (n) and by in-
8 serting after subsection (l) the following new subsection:

9 “(m) CLARIFICATION OF ECONOMIC SUBSTANCE
10 DOCTRINE; ETC.—

11 “(1) GENERAL RULES.—

12 “(A) IN GENERAL.—In applying the eco-
13 nomic substance doctrine, the determination of
14 whether a transaction has economic substance
15 shall be made as provided in this paragraph.

16 “(B) DEFINITION OF ECONOMIC SUB-
17 STANCE.—For purposes of subparagraph (A)—

18 “(i) IN GENERAL.—A transaction has
19 economic substance only if—

20 “(I) the transaction changes in a
21 meaningful way (apart from Federal
22 tax effects and, if there is any Federal
23 tax effects, also apart from any for-
24 eign, State, or local tax effects) the
25 taxpayer’s economic position, and



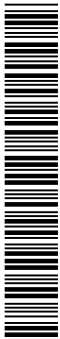
1 “(II) the taxpayer has a substan-
2 tial nontax purpose for entering into
3 such transaction and the transaction
4 is a reasonable means of accom-
5 plishing such purpose.

6 “(ii) SPECIAL RULE WHERE TAX-
7 PAYER RELIES ON PROFIT POTENTIAL.—A
8 transaction shall not be treated as having
9 economic substance by reason of having a
10 potential for profit unless—

11 “(I) the present value of the rea-
12 sonably expected pre-tax profit from
13 the transaction is substantial in rela-
14 tion to the present value of the ex-
15 pected net tax benefits that would be
16 allowed if the transaction were re-
17 spected, and

18 “(II) the reasonably expected
19 pre-tax profit from the transaction ex-
20 ceeds a risk-free rate of return.

21 “(C) TREATMENT OF FEES AND FOREIGN
22 TAXES.—Fees and other transaction expenses
23 and foreign taxes shall be taken into account as
24 expenses in determining pre-tax profit under
25 subparagraph (B)(ii).

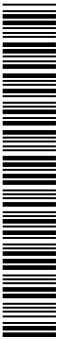


1 “(2) SPECIAL RULES FOR TRANSACTIONS WITH
2 TAX-INDIFFERENT PARTIES.—

3 “(A) SPECIAL RULES FOR FINANCING
4 TRANSACTIONS.—The form of a transaction
5 which is in substance the borrowing of money
6 or the acquisition of financial capital directly or
7 indirectly from a tax-indifferent party shall not
8 be respected if the present value of the deduc-
9 tions to be claimed with respect to the trans-
10 action is substantially in excess of the present
11 value of the anticipated economic returns of the
12 person lending the money or providing the fi-
13 nancial capital. A public offering shall be treat-
14 ed as a borrowing, or an acquisition of financial
15 capital, from a tax-indifferent party if it is rea-
16 sonably expected that at least 50 percent of the
17 offering will be placed with tax-indifferent par-
18 ties.

19 “(B) ARTIFICIAL INCOME SHIFTING AND
20 BASIS ADJUSTMENTS.—The form of a trans-
21 action with a tax-indifferent party shall not be
22 respected if—

23 “(i) it results in an allocation of in-
24 come or gain to the tax-indifferent party in



1 excess of such party's economic income or
2 gain, or

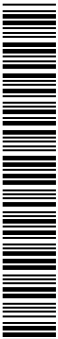
3 “(ii) it results in a basis adjustment
4 or shifting of basis on account of over-
5 stating the income or gain of the tax-indif-
6 ferent party.

7 “(3) DEFINITIONS AND SPECIAL RULES.—For
8 purposes of this subsection—

9 “(A) ECONOMIC SUBSTANCE DOCTRINE.—
10 The term ‘economic substance doctrine’ means
11 the common law doctrine under which tax bene-
12 fits under subtitle A with respect to a trans-
13 action are not allowable if the transaction does
14 not have economic substance or lacks a business
15 purpose.

16 “(B) TAX-INDIFFERENT PARTY.—The
17 term ‘tax-indifferent party’ means any person
18 or entity not subject to tax imposed by subtitle
19 A. A person shall be treated as a tax-indifferent
20 party with respect to a transaction if the items
21 taken into account with respect to the trans-
22 action have no substantial impact on such per-
23 son's liability under subtitle A.

24 “(C) SUBSTANTIAL NONTAX PURPOSE.—In
25 applying subclause (II) of paragraph (1)(B)(i),



1 a purpose of achieving a financial accounting
2 benefit shall not be taken into account in deter-
3 mining whether a transaction has a substantial
4 nontax purpose if the origin of such financial
5 accounting benefit is a reduction of income tax.

6 “(D) EXCEPTION FOR PERSONAL TRANS-
7 ACTIONS OF INDIVIDUALS.—In the case of an
8 individual, this subsection shall apply only to
9 transactions entered into in connection with a
10 trade or business or an activity engaged in for
11 the production of income.

12 “(E) TREATMENT OF LESSORS.—In apply-
13 ing subclause (I) of paragraph (1)(B)(ii) to the
14 lessor of tangible property subject to a lease,
15 the expected net tax benefits shall not include
16 the benefits of depreciation, or any tax credit,
17 with respect to the leased property and sub-
18 clause (II) of paragraph (1)(B)(ii) shall be dis-
19 regarded in determining whether any of such
20 benefits are allowable.

21 “(4) OTHER COMMON LAW DOCTRINES NOT AF-
22 FECTED.—Except as specifically provided in this
23 subsection, the provisions of this subsection shall not
24 be construed as altering or supplanting any other
25 rule of law, and the requirements of this subsection



1 shall be construed as being in addition to any such
2 other rule of law.

3 “(5) REGULATIONS.—The Secretary shall pre-
4 scribe such regulations as may be necessary or ap-
5 propriate to carry out the purposes of this sub-
6 section. Such regulations may include exemptions
7 from the application of this subsection.”

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to transactions entered into after
10 February 13, 2003.

11 **SEC. 112. PENALTY FOR FAILING TO DISCLOSE REPORT-**
12 **ABLE TRANSACTION.**

13 (a) IN GENERAL.—Part I of subchapter B of chapter
14 68 (relating to assessable penalties) is amended by insert-
15 ing after section 6707 the following new section:

16 **“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORT-**
17 **ABLE TRANSACTION INFORMATION WITH RE-**
18 **TURN OR STATEMENT.**

19 “(a) IMPOSITION OF PENALTY.—Any person who
20 fails to include on any return or statement any informa-
21 tion with respect to a reportable transaction which is re-
22 quired under section 6011 to be included with such return
23 or statement shall pay a penalty in the amount determined
24 under subsection (b).

25 “(b) AMOUNT OF PENALTY.—



1 “(1) IN GENERAL.—Except as provided in para-
2 graphs (2) and (3), the amount of the penalty under
3 subsection (a) shall be \$50,000.

4 “(2) LISTED TRANSACTION.—The amount of
5 the penalty under subsection (a) with respect to a
6 listed transaction shall be \$100,000.

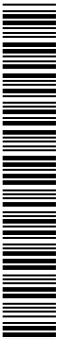
7 “(3) INCREASE IN PENALTY FOR LARGE ENTI-
8 TIES AND HIGH NET WORTH INDIVIDUALS.—

9 “(A) IN GENERAL.—In the case of a fail-
10 ure under subsection (a) by—

11 “(i) a large entity, or

12 “(ii) a high net worth individual,
13 the penalty under paragraph (1) or (2) shall be
14 twice the amount determined without regard to
15 this paragraph.

16 “(B) LARGE ENTITY.—For purposes of
17 subparagraph (A), the term ‘large entity’
18 means, with respect to any taxable year, a per-
19 son (other than a natural person) with gross re-
20 ceipts in excess of \$10,000,000 for the taxable
21 year in which the reportable transaction occurs
22 or the preceding taxable year. Rules similar to
23 the rules of paragraph (2) and subparagraphs
24 (B), (C), and (D) of paragraph (3) of section



1 448(c) shall apply for purposes of this subpara-
2 graph.

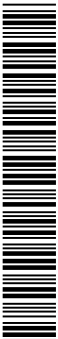
3 “(C) HIGH NET WORTH INDIVIDUAL.—For
4 purposes of subparagraph (A), the term ‘high
5 net worth individual’ means, with respect to a
6 reportable transaction, a natural person whose
7 net worth exceeds \$2,000,000 immediately be-
8 fore the transaction.

9 “(c) DEFINITIONS.—For purposes of this section—

10 “(1) REPORTABLE TRANSACTION.—The term
11 ‘reportable transaction’ means any transaction with
12 respect to which information is required to be in-
13 cluded with a return or statement because, as deter-
14 mined under regulations prescribed under section
15 6011, such transaction is of a type which the Sec-
16 retary determines as having a potential for tax
17 avoidance or evasion.

18 “(2) LISTED TRANSACTION.—Except as pro-
19 vided in regulations, the term ‘listed transaction’
20 means a reportable transaction which is the same as,
21 or substantially similar to, a transaction specifically
22 identified by the Secretary as a tax avoidance trans-
23 action for purposes of section 6011.

24 “(d) AUTHORITY TO RESCIND PENALTY.—



1 “(1) IN GENERAL.—The Commissioner of In-
2 ternal Revenue may rescind all or any portion of any
3 penalty imposed by this section with respect to any
4 violation if—

5 “(A) the violation is with respect to a re-
6 portable transaction other than a listed trans-
7 action,

8 “(B) the person on whom the penalty is
9 imposed has a history of complying with the re-
10 quirements of this title,

11 “(C) it is shown that the violation is due
12 to an unintentional mistake of fact;

13 “(D) imposing the penalty would be
14 against equity and good conscience, and

15 “(E) rescinding the penalty would promote
16 compliance with the requirements of this title
17 and effective tax administration.

18 “(2) DISCRETION.—The exercise of authority
19 under paragraph (1) shall be at the sole discretion
20 of the Commissioner and may be delegated only to
21 the head of the Office of Tax Shelter Analysis. The
22 Commissioner, in the Commissioner’s sole discretion,
23 may establish a procedure to determine if a penalty
24 should be referred to the Commissioner or the head



1 of such Office for a determination under paragraph
2 (1).

3 “(3) NO APPEAL.—Notwithstanding any other
4 provision of law, any determination under this sub-
5 section may not be reviewed in any administrative or
6 judicial proceeding.

7 “(4) RECORDS.—If a penalty is rescinded under
8 paragraph (1), the Commissioner shall place in the
9 file in the Office of the Commissioner the opinion of
10 the Commissioner or the head of the Office of Tax
11 Shelter Analysis with respect to the determination,
12 including—

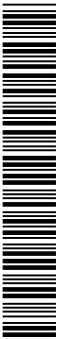
13 “(A) the facts and circumstances of the
14 transaction,

15 “(B) the reasons for the rescission, and

16 “(C) the amount of the penalty rescinded.

17 “(5) REPORT.—The Commissioner shall each
18 year report to the Committee on Ways and Means
19 of the House of Representatives and the Committee
20 on Finance of the Senate—

21 “(A) a summary of the total number and
22 aggregate amount of penalties imposed, and re-
23 scinded, under this section, and



1 “(B) a description of each penalty re-
2 scinded under this subsection and the reasons
3 therefor.

4 “(e) PENALTY REPORTED TO SEC.—In the case of
5 a person—

6 “(1) which is required to file periodic reports
7 under section 13 or 15(d) of the Securities Ex-
8 change Act of 1934 or is required to be consolidated
9 with another person for purposes of such reports,
10 and

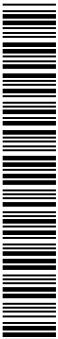
11 “(2) which—

12 “(A) is required to pay a penalty under
13 this section with respect to a listed transaction,

14 “(B) is required to pay a penalty under
15 section 6662A with respect to any reportable
16 transaction at a rate prescribed under section
17 6662A(c), or

18 “(C) is required to pay a penalty under
19 section 6662B with respect to any noneconomic
20 substance transaction,

21 the requirement to pay such penalty shall be disclosed in
22 such reports filed by such person for such periods as the
23 Secretary shall specify. Failure to make a disclosure in
24 accordance with the preceding sentence shall be treated



1 as a failure to which the penalty under subsection (b)(2)
2 applies.

3 “(f) COORDINATION WITH OTHER PENALTIES.—The
4 penalty imposed by this section is in addition to any pen-
5 alty imposed under this title.”

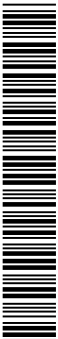
6 (b) CONFORMING AMENDMENT.—The table of sec-
7 tions for part I of subchapter B of chapter 68 is amended
8 by inserting after the item relating to section 6707 the
9 following:

“Sec. 6707A. Penalty for failure to include reportable transaction
information with return or statement.”

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to returns and statements the due
12 date for which is after the date of the enactment of this
13 Act.

14 **SEC. 113. ACCURACY-RELATED PENALTY FOR LISTED**
15 **TRANSACTIONS AND OTHER REPORTABLE**
16 **TRANSACTIONS HAVING A SIGNIFICANT TAX**
17 **AVOIDANCE PURPOSE.**

18 (a) IN GENERAL.—Subchapter A of chapter 68 is
19 amended by inserting after section 6662 the following new
20 section:



1 **“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PEN-**
2 **ALTY ON UNDERSTATEMENTS WITH RESPECT**
3 **TO REPORTABLE TRANSACTIONS.**

4 “(a) IMPOSITION OF PENALTY.—If a taxpayer has a
5 reportable transaction understatement for any taxable
6 year, there shall be added to the tax an amount equal to
7 20 percent of the amount of such understatement.

8 “(b) REPORTABLE TRANSACTION UNDERSTATE-
9 MENT.—For purposes of this section—

10 “(1) IN GENERAL.—The term ‘reportable trans-
11 action understatement’ means the sum of—

12 “(A) the product of—

13 “(i) the amount of the increase (if
14 any) in taxable income which results from
15 a difference between the proper tax treat-
16 ment of an item to which this section ap-
17 plies and the taxpayer’s treatment of such
18 item (as shown on the taxpayer’s return of
19 tax), and

20 “(ii) the highest rate of tax imposed
21 by section 1 (section 11 in the case of a
22 taxpayer which is a corporation), and

23 “(B) the amount of the decrease (if any)
24 in the aggregate amount of credits determined
25 under subtitle A which results from a difference
26 between the taxpayer’s treatment of an item to



1 which this section applies (as shown on the tax-
2 payer's return of tax) and the proper tax treat-
3 ment of such item.

4 For purposes of subparagraph (A), any reduction of
5 the excess of deductions allowed for the taxable year
6 over gross income for such year, and any reduction
7 in the amount of capital losses which would (without
8 regard to section 1211) be allowed for such year,
9 shall be treated as an increase in taxable income.

10 “(2) ITEMS TO WHICH SECTION APPLIES.—This
11 section shall apply to any item which is attributable
12 to—

13 “(A) any listed transaction, and

14 “(B) any reportable transaction (other
15 than a listed transaction) if a significant pur-
16 pose of such transaction is the avoidance or
17 evasion of Federal income tax.

18 “(c) HIGHER PENALTY FOR NONDISCLOSED LISTED
19 AND OTHER AVOIDANCE TRANSACTIONS.—

20 “(1) IN GENERAL.—Subsection (a) shall be ap-
21 plied by substituting ‘30 percent’ for ‘20 percent’
22 with respect to the portion of any reportable trans-
23 action understatement with respect to which the re-
24 quirement of section 6664(d)(2)(A) is not met.



1 “(2) RULES APPLICABLE TO COMPROMISE OF
2 PENALTY.—

3 “(A) IN GENERAL.—If the 1st letter of
4 proposed deficiency which allows the taxpayer
5 an opportunity for administrative review in the
6 Internal Revenue Service Office of Appeals has
7 been sent with respect to a penalty to which
8 paragraph (1) applies, only the Commissioner
9 of Internal Revenue may compromise all or any
10 portion of such penalty.

11 “(B) APPLICABLE RULES.—The rules of
12 paragraphs (3), (4), and (5) of section
13 6707A(d) shall apply for purposes of subpara-
14 graph (A).

15 “(d) DEFINITIONS OF REPORTABLE AND LISTED
16 TRANSACTIONS.—For purposes of this section, the terms
17 ‘reportable transaction’ and ‘listed transaction’ have the
18 respective meanings given to such terms by section
19 6707A(c).

20 “(e) SPECIAL RULES.—

21 “(1) COORDINATION WITH PENALTIES, ETC.,
22 ON OTHER UNDERSTATEMENTS.—In the case of an
23 understatement (as defined in section 6662(d)(2))—

24 “(A) the amount of such understatement
25 (determined without regard to this paragraph)



1 shall be increased by the aggregate amount of
2 reportable transaction understatements and
3 noneconomic substance transaction understate-
4 ments for purposes of determining whether
5 such understatement is a substantial under-
6 statement under section 6662(d)(1), and

7 “(B) the addition to tax under section
8 6662(a) shall apply only to the excess of the
9 amount of the substantial understatement (if
10 any) after the application of subparagraph (A)
11 over the aggregate amount of reportable trans-
12 action understatements and noneconomic sub-
13 stance transaction understatements.

14 “(2) COORDINATION WITH OTHER PEN-
15 ALTIES.—

16 “(A) APPLICATION OF FRAUD PENALTY.—
17 References to an underpayment in section 6663
18 shall be treated as including references to a re-
19 reportable transaction understatement and a non-
20 economic substance transaction understatement.

21 “(B) NO DOUBLE PENALTY.—This section
22 shall not apply to any portion of an understate-
23 ment on which a penalty is imposed under sec-
24 tion 6662B or 6663.



1 “(3) SPECIAL RULE FOR AMENDED RE-
2 TURNS.—Except as provided in regulations, in no
3 event shall any tax treatment included with an
4 amendment or supplement to a return of tax be
5 taken into account in determining the amount of any
6 reportable transaction understatement or non-
7 economic substance transaction understatement if
8 the amendment or supplement is filed after the ear-
9 lier of the date the taxpayer is first contacted by the
10 Secretary regarding the examination of the return or
11 such other date as is specified by the Secretary.

12 “(4) NONECONOMIC SUBSTANCE TRANSACTION
13 UNDERSTATEMENT.—For purposes of this sub-
14 section, the term ‘noneconomic substance trans-
15 action understatement’ has the meaning given such
16 term by section 6662B(c).

17 “(5) CROSS REFERENCE.—

**“For reporting of section 6662A(c) penalty to the
 Securities and Exchange Commission, see section
 6707A(e).”**

18 (b) DETERMINATION OF OTHER UNDERSTATE-
19 MENTS.—Subparagraph (A) of section 6662(d)(2) is
20 amended by adding at the end the following flush sen-
21 tence:

22 “The excess under the preceding sentence shall
23 be determined without regard to items to which
24 section 6662A applies and without regard to



1 items with respect to which a penalty is im-
2 posed by section 6662B.”

3 (c) REASONABLE CAUSE EXCEPTION.—

4 (1) IN GENERAL.—Section 6664 is amended by
5 adding at the end the following new subsection:

6 “(d) REASONABLE CAUSE EXCEPTION FOR REPORT-
7 ABLE TRANSACTION UNDERSTATEMENTS.—

8 “(1) IN GENERAL.—No penalty shall be im-
9 posed under section 6662A with respect to any por-
10 tion of a reportable transaction understatement if it
11 is shown that there was a reasonable cause for such
12 portion and that the taxpayer acted in good faith
13 with respect to such portion.

14 “(2) SPECIAL RULES.—Paragraph (1) shall not
15 apply to any reportable transaction understatement
16 unless—

17 “(A) the relevant facts affecting the tax
18 treatment of the item are adequately disclosed
19 in accordance with the regulations prescribed
20 under section 6011,

21 “(B) there is or was substantial authority
22 for such treatment, and

23 “(C) the taxpayer reasonably believed that
24 such treatment was more likely than not the
25 proper treatment.



1 A taxpayer failing to adequately disclose in accord-
2 ance with section 6011 shall be treated as meeting
3 the requirements of subparagraph (A) if the penalty
4 for such failure was rescinded under section
5 6707A(d).

6 “(3) RULES RELATING TO REASONABLE BE-
7 LIEF.—For purposes of paragraph (2)(C)—

8 “(A) IN GENERAL.—A taxpayer shall be
9 treated as having a reasonable belief with re-
10 spect to the tax treatment of an item only if
11 such belief—

12 “(i) is based on the facts and law that
13 exist at the time the return of tax which
14 includes such tax treatment is filed, and

15 “(ii) relates solely to the taxpayer’s
16 chances of success on the merits of such
17 treatment and does not take into account
18 the possibility that a return will not be au-
19 dited, such treatment will not be raised on
20 audit, or such treatment will be resolved
21 through settlement if it is raised.

22 “(B) CERTAIN OPINIONS MAY NOT BE RE-
23 LIED UPON.—

24 “(i) IN GENERAL.—An opinion of a
25 tax advisor may not be relied upon to es-



1 tablish the reasonable belief of a taxpayer
2 if—

3 “(I) the tax advisor is described
4 in clause (ii), or

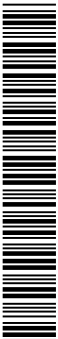
5 “(II) the opinion is described in
6 clause (iii).

7 “(ii) DISQUALIFIED TAX ADVISORS.—
8 A tax advisor is described in this clause if
9 the tax advisor—

10 “(I) is a material advisor (within
11 the meaning of section 6111(b)(1))
12 who participates in the organization,
13 management, promotion, or sale of
14 the transaction or who is related
15 (within the meaning of section 267(b)
16 or 707(b)(1)) to any person who so
17 participates,

18 “(II) is compensated directly or
19 indirectly by a material advisor with
20 respect to the transaction,

21 “(III) has a fee arrangement
22 with respect to the transaction which
23 is contingent on all or part of the in-
24 tended tax benefits from the trans-
25 action being sustained, or



1 “(IV) as determined under regu-
2 lations prescribed by the Secretary,
3 has a continuing financial interest
4 with respect to the transaction.

5 “(iii) DISQUALIFIED OPINIONS.—For
6 purposes of clause (i), an opinion is dis-
7 qualified if the opinion—

8 “(I) is based on unreasonable
9 factual or legal assumptions (includ-
10 ing assumptions as to future events),

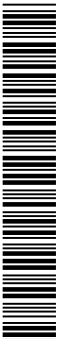
11 “(II) unreasonably relies on rep-
12 resentations, statements, findings, or
13 agreements of the taxpayer or any
14 other person,

15 “(III) does not identify and con-
16 sider all relevant facts, or

17 “(IV) fails to meet any other re-
18 quirement as the Secretary may pre-
19 scribe.”

20 (2) CONFORMING AMENDMENT.—The heading
21 for subsection (c) of section 6664 is amended by in-
22 serting “FOR UNDERPAYMENTS” after “EXCEP-
23 TION”.

24 (d) CONFORMING AMENDMENTS.—



1 (1) Subparagraph (C) of section 461(i)(3) is
2 amended by striking “section 6662(d)(2)(C)(iii)”
3 and inserting “section 1274(b)(3)(C)”.

4 (2) Paragraph (3) of section 1274(b) is
5 amended—

6 (A) by striking “(as defined in section
7 6662(d)(2)(C)(iii))” in subparagraph (B)(i),
8 and

9 (B) by adding at the end the following new
10 subparagraph:

11 “(C) TAX SHELTER.—For purposes of sub-
12 paragraph (B), the term ‘tax shelter’ means—

13 “(i) a partnership or other entity,

14 “(ii) any investment plan or arrange-
15 ment, or

16 “(iii) any other plan or arrangement,
17 if a significant purpose of such partnership, en-
18 tity, plan, or arrangement is the avoidance or
19 evasion of Federal income tax.”

20 (3) Section 6662(d)(2) is amended by striking
21 subparagraphs (C) and (D).

22 (4) Section 6664(c)(1) is amended by striking
23 “this part” and inserting “section 6662 or 6663”.



1 (5) Subsection (b) of section 7525 is amended
2 by striking “section 6662(d)(2)(C)(iii)” and insert-
3 ing “section 1274(b)(3)(C)”.

4 (6)(A) The heading for section 6662 is amend-
5 ed to read as follows:

6 **“SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY**
7 **ON UNDERPAYMENTS.”**

8 (B) The table of sections for part II of sub-
9 chapter A of chapter 68 is amended by striking the
10 item relating to section 6662 and inserting the fol-
11 lowing new items:

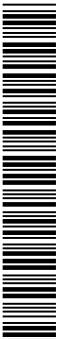
“Sec. 6662. Imposition of accuracy-related penalty on underpay-
ments.

“Sec. 6662A. Imposition of accuracy-related penalty on under-
statements with respect to reportable transactions.”

12 (e) **EFFECTIVE DATE.**—The amendments made by
13 this section shall apply to taxable years ending after the
14 date of the enactment of this Act.

15 **SEC. 114. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
16 **UTABLE TO TRANSACTIONS LACKING ECO-**
17 **NOMIC SUBSTANCE, ETC.**

18 (a) **IN GENERAL.**—Subchapter A of chapter 68 is
19 amended by inserting after section 6662A the following
20 new section:



1 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
2 **UTABLE TO TRANSACTIONS LACKING ECO-**
3 **NOMIC SUBSTANCE, ETC.**

4 “(a) IMPOSITION OF PENALTY.—If a taxpayer has an
5 noneconomic substance transaction understatement for
6 any taxable year, there shall be added to the tax an
7 amount equal to 40 percent of the amount of such under-
8 statement.

9 “(b) REDUCTION OF PENALTY FOR DISCLOSED
10 TRANSACTIONS.—Subsection (a) shall be applied by sub-
11 stituting ‘20 percent’ for ‘40 percent’ with respect to the
12 portion of any noneconomic substance transaction under-
13 statement with respect to which the relevant facts affect-
14 ing the tax treatment of the item are adequately disclosed
15 in the return or a statement attached to the return.

16 “(c) NONECONOMIC SUBSTANCE TRANSACTION UN-
17 DERSTATEMENT.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘noneconomic
19 substance transaction understatement’ means any
20 amount which would be an understatement under
21 section 6662A(b)(1) if section 6662A were applied
22 by taking into account items attributable to non-
23 economic substance transactions rather than items
24 to which section 6662A would apply without regard
25 to this paragraph.



1 “(2) NONECONOMIC SUBSTANCE TRANS-
2 ACTION.—The term ‘noneconomic substance trans-
3 action’ means any transaction if—

4 “(A) there is a lack of economic substance
5 (within the meaning of section 7701(m)(1)) for
6 the transaction giving rise to the claimed tax
7 benefit or the transaction was not respected
8 under section 7701(m)(2), or

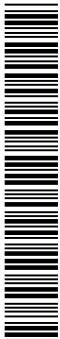
9 “(B) the transaction fails to meet the re-
10 quirements of any similar rule of law.

11 “(d) RULES APPLICABLE TO COMPROMISE OF PEN-
12 ALTY.—

13 “(1) IN GENERAL.—If the 1st letter of pro-
14 posed deficiency which allows the taxpayer an oppor-
15 tunity for administrative review in the Internal Rev-
16 enue Service Office of Appeals has been sent with
17 respect to a penalty to which this section applies,
18 only the Commissioner of Internal Revenue may
19 compromise all or any portion of such penalty.

20 “(2) APPLICABLE RULES.—The rules of para-
21 graphs (3), (4), and (5) of section 6707A(d) shall
22 apply for purposes of paragraph (1).

23 “(e) COORDINATION WITH OTHER PENALTIES.—Ex-
24 cept as otherwise provided in this part, the penalty im-



1 posed by this section shall be in addition to any other pen-
2 alty imposed by this title.

3 “(f) CROSS REFERENCES.—

“**(1) For coordination of penalty with understate-
ments under section 6662 and other special rules,
see section 6662A(e).**

“**(2) For reporting of penalty imposed under this
section to the Securities and Exchange Commission,
see section 6707A(e).**”

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for part II of subchapter A of chapter 68 is amended by
6 inserting after the item relating to section 6662A the fol-
7 lowing new item:

“Sec. 6662B. Penalty for understatements attributable to trans-
actions lacking economic substance, etc.”

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to transactions entered into after
10 February 13, 2003.

11 **SEC. 115. MODIFICATIONS OF SUBSTANTIAL UNDERSTATE-**
12 **MENT PENALTY FOR NONREPORTABLE**
13 **TRANSACTIONS.**

14 (a) SUBSTANTIAL UNDERSTATEMENT OF CORPORA-
15 TIONS.—Section 6662(d)(1)(B) (relating to special rule
16 for corporations) is amended to read as follows:

17 “(B) SPECIAL RULE FOR CORPORA-
18 TIONS.—In the case of a corporation other than
19 an S corporation or a personal holding company
20 (as defined in section 542), there is a substan-
21 tial understatement of income tax for any tax-



1 able year if the amount of the understatement
2 for the taxable year exceeds the lesser of—

3 “(i) 10 percent of the tax required to
4 be shown on the return for the taxable
5 year (or, if greater, \$10,000), or

6 “(ii) \$10,000,000.”

7 (b) REDUCTION FOR UNDERSTATEMENT OF TAX-
8 PAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED
9 ITEM.—

10 (1) IN GENERAL.—Section 6662(d)(2)(B)(i)
11 (relating to substantial authority) is amended to
12 read as follows:

13 “(i) the tax treatment of any item by
14 the taxpayer if the taxpayer had reason-
15 able belief that the tax treatment was more
16 likely than not the proper treatment, or”.

17 (2) CONFORMING AMENDMENT.—Section
18 6662(d) is amended by adding at the end the fol-
19 lowing new paragraph:

20 “(3) SECRETARIAL LIST.—For purposes of this
21 subsection, section 6664(d)(2), and section
22 6694(a)(1), the Secretary may prescribe a list of po-
23 sitions for which the Secretary believes there is not
24 substantial authority or there is no reasonable belief
25 that the tax treatment is more likely than not the



1 proper tax treatment. Such list (and any revisions
2 thereof) shall be published in the Federal Register
3 or the Internal Revenue Bulletin.”

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 the date of the enactment of this Act.

7 **SEC. 116. TAX SHELTER EXCEPTION TO CONFIDENTIALITY**
8 **PRIVILEGES RELATING TO TAXPAYER COM-**
9 **MUNICATIONS.**

10 (a) IN GENERAL.—Section 7525(b) (relating to sec-
11 tion not to apply to communications regarding corporate
12 tax shelters) is amended to read as follows:

13 “(b) SECTION NOT TO APPLY TO COMMUNICATIONS
14 REGARDING TAX SHELTERS.—The privilege under sub-
15 section (a) shall not apply to any written communication
16 which is—

17 “(1) between a federally authorized tax practi-
18 tioner and—

19 “(A) any person,

20 “(B) any director, officer, employee, agent,
21 or representative of the person, or

22 “(C) any other person holding a capital or
23 profits interest in the person, and



1 “(2) in connection with the promotion of the di-
2 rect or indirect participation of the person in any
3 tax shelter (as defined in section 1274(b)(3)(C)).”

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to communications made on or
6 after the date of the enactment of this Act.

7 **SEC. 117. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

8 (a) IN GENERAL.—Section 6111 (relating to registra-
9 tion of tax shelters) is amended to read as follows:

10 **“SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

11 “(a) IN GENERAL.—Each material advisor with re-
12 spect to any reportable transaction shall make a return
13 (in such form as the Secretary may prescribe) setting
14 forth—

15 “(1) information identifying and describing the
16 transaction,

17 “(2) information describing any potential tax
18 benefits expected to result from the transaction, and

19 “(3) such other information as the Secretary
20 may prescribe.

21 Such return shall be filed not later than the date specified
22 by the Secretary.

23 “(b) DEFINITIONS.—For purposes of this section—

24 “(1) MATERIAL ADVISOR.—



1 “(A) IN GENERAL.—The term ‘material
2 advisor’ means any person—

3 “(i) who provides any material aid,
4 assistance, or advice with respect to orga-
5 nizing, promoting, selling, implementing,
6 or carrying out any reportable transaction,
7 and

8 “(ii) who directly or indirectly derives
9 gross income in excess of the threshold
10 amount for such aid, assistance, or advice.

11 “(B) THRESHOLD AMOUNT.—For purposes
12 of subparagraph (A), the threshold amount is—

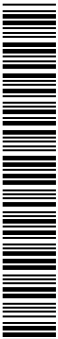
13 “(i) \$50,000 in the case of a report-
14 able transaction substantially all of the tax
15 benefits from which are provided to nat-
16 ural persons, and

17 “(ii) \$250,000 in any other case.

18 “(2) REPORTABLE TRANSACTION.—The term
19 ‘reportable transaction’ has the meaning given to
20 such term by section 6707A(c).

21 “(c) REGULATIONS.—The Secretary may prescribe
22 regulations which provide—

23 “(1) that only 1 person shall be required to
24 meet the requirements of subsection (a) in cases in



1 which 2 or more persons would otherwise be re-
2 quired to meet such requirements,

3 “(2) exemptions from the requirements of this
4 section, and

5 “(3) such rules as may be necessary or appro-
6 priate to carry out the purposes of this section.”

7 (b) CONFORMING AMENDMENTS.—

8 (1) The item relating to section 6111 in the
9 table of sections for subchapter B of chapter 61 is
10 amended to read as follows:

“Sec. 6111. Disclosure of reportable transactions.”

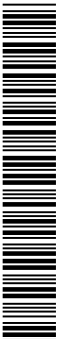
11 (2)(A) So much of section 6112 as precedes
12 subsection (c) thereof is amended to read as follows:

13 **“SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANS-**
14 **ACTIONS MUST KEEP LISTS OF ADVISEES.**

15 “(a) IN GENERAL.—Each material advisor (as de-
16 fined in section 6111) with respect to any reportable
17 transaction (as defined in section 6707A(c)) shall main-
18 tain, in such manner as the Secretary may by regulations
19 prescribe, a list—

20 “(1) identifying each person with respect to
21 whom such advisor acted as such a material advisor
22 with respect to such transaction, and

23 “(2) containing such other information as the
24 Secretary may by regulations require.



1 This section shall apply without regard to whether a mate-
2 rial advisor is required to file a return under section 6111
3 with respect to such transaction.”

4 (B) Section 6112 is amended by redesignating
5 subsection (c) as subsection (b).

6 (C) Section 6112(b), as redesignated by sub-
7 paragraph (B), is amended—

8 (i) by inserting “written” before “request”
9 in paragraph (1)(A), and

10 (ii) by striking “shall prescribe” in para-
11 graph (2) and inserting “may prescribe”.

12 (D) The item relating to section 6112 in the
13 table of sections for subchapter B of chapter 61 is
14 amended to read as follows:

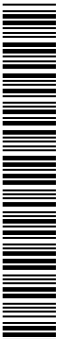
“Sec. 6112. Material advisors of reportable transactions must
keep lists of advisees.”

15 (3)(A) The heading for section 6708 is amend-
16 ed to read as follows:

17 **“SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES**
18 **WITH RESPECT TO REPORTABLE TRANS-**
19 **ACTIONS.”**

20 (B) The item relating to section 6708 in the
21 table of sections for part I of subchapter B of chap-
22 ter 68 is amended to read as follows:

“Sec. 6708. Failure to maintain lists of advisees with respect to
reportable transactions.”



1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transactions with respect to
3 which material aid, assistance, or advice referred to in sec-
4 tion 6111(b)(1)(A)(i) of the Internal Revenue Code of
5 1986 (as added by this section) is provided after the date
6 of the enactment of this Act.

7 **SEC. 118. MODIFICATIONS TO PENALTY FOR FAILURE TO**
8 **REGISTER TAX SHELTERS.**

9 (a) IN GENERAL.—Section 6707 (relating to failure
10 to furnish information regarding tax shelters) is amended
11 to read as follows:

12 **“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARD-**
13 **ING REPORTABLE TRANSACTIONS.**

14 “(a) IN GENERAL.—If a person who is required to
15 file a return under section 6111(a) with respect to any
16 reportable transaction—

17 “(1) fails to file such return on or before the
18 date prescribed therefor, or

19 “(2) files false or incomplete information with
20 the Secretary with respect to such transaction,

21 such person shall pay a penalty with respect to such return
22 in the amount determined under subsection (b).

23 “(b) AMOUNT OF PENALTY.—



1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the penalty imposed under subsection (a)
3 with respect to any failure shall be \$50,000.

4 “(2) LISTED TRANSACTIONS.—The penalty im-
5 posed under subsection (a) with respect to any listed
6 transaction shall be an amount equal to the greater
7 of—

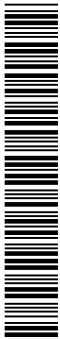
8 “(A) \$200,000, or

9 “(B) 50 percent of the gross income de-
10 rived by such person with respect to aid, assist-
11 ance, or advice which is provided with respect
12 to the reportable transaction before the date the
13 return including the transaction is filed under
14 section 6111.

15 Subparagraph (B) shall be applied by substituting
16 ‘75 percent’ for ‘50 percent’ in the case of an inten-
17 tional failure or act described in subsection (a).

18 “(c) RESCISSION AUTHORITY.—The provisions of
19 section 6707A(d) (relating to authority of Commissioner
20 to rescind penalty) shall apply to any penalty imposed
21 under this section.

22 “(d) REPORTABLE AND LISTED TRANSACTIONS.—
23 The terms ‘reportable transaction’ and ‘listed transaction’
24 have the respective meanings given to such terms by sec-
25 tion 6707A(c).”.



1 (b) CLERICAL AMENDMENT.—The item relating to
2 section 6707 in the table of sections for part I of sub-
3 chapter B of chapter 68 is amended by striking “tax shel-
4 ters” and inserting “reportable transactions”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to returns the due date for which
7 is after the date of the enactment of this Act.

8 **SEC. 119. MODIFICATION OF PENALTY FOR FAILURE TO**
9 **MAINTAIN LISTS OF INVESTORS.**

10 (a) IN GENERAL.—Subsection (a) of section 6708 is
11 amended to read as follows:

12 “(a) IMPOSITION OF PENALTY.—

13 “(1) IN GENERAL.—If any person who is re-
14 quired to maintain a list under section 6112(a) fails
15 to make such list available upon written request to
16 the Secretary in accordance with section
17 6112(b)(1)(A) within 20 business days after the
18 date of the Secretary’s request, such person shall
19 pay a penalty of \$10,000 for each day of such fail-
20 ure after such 20th day.

21 “(2) REASONABLE CAUSE EXCEPTION.—No
22 penalty shall be imposed by paragraph (1) with re-
23 spect to the failure on any day if such failure is due
24 to reasonable cause.”



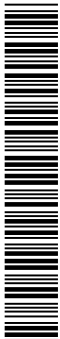
1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to requests made after the date
3 of the enactment of this Act.

4 **SEC. 120. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN**
5 **CONDUCT RELATED TO TAX SHELTERS AND**
6 **REPORTABLE TRANSACTIONS.**

7 (a) IN GENERAL.—Section 7408 (relating to action
8 to enjoin promoters of abusive tax shelters, etc.) is amend-
9 ed by redesignating subsection (c) as subsection (d) and
10 by striking subsections (a) and (b) and inserting the fol-
11 lowing new subsections:

12 “(a) AUTHORITY TO SEEK INJUNCTION.—A civil ac-
13 tion in the name of the United States to enjoin any person
14 from further engaging in specified conduct may be com-
15 menced at the request of the Secretary. Any action under
16 this section shall be brought in the district court of the
17 United States for the district in which such person resides,
18 has his principal place of business, or has engaged in spec-
19 ified conduct. The court may exercise its jurisdiction over
20 such action (as provided in section 7402(a)) separate and
21 apart from any other action brought by the United States
22 against such person.

23 “(b) ADJUDICATION AND DECREE.—In any action
24 under subsection (a), if the court finds—



1 “(1) that the person has engaged in any speci-
2 fied conduct, and

3 “(2) that injunctive relief is appropriate to pre-
4 vent recurrence of such conduct,

5 the court may enjoin such person from engaging in such
6 conduct or in any other activity subject to penalty under
7 this title.

8 “(c) SPECIFIED CONDUCT.—For purposes of this
9 section, the term ‘specified conduct’ means any action, or
10 failure to take action, subject to penalty under section
11 6700, 6701, 6707, or 6708.”

12 (b) CONFORMING AMENDMENTS.—

13 (1) The heading for section 7408 is amended to
14 read as follows:

15 **“SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RE-**
16 **LATED TO TAX SHELTERS AND REPORTABLE**
17 **TRANSACTIONS.”**

18 (2) The table of sections for subchapter A of
19 chapter 67 is amended by striking the item relating
20 to section 7408 and inserting the following new
21 item:

 “Sec. 7408. Actions to enjoin specified conduct related to tax shelters and
 reportable transactions.”

22 (c) EFFECTIVE DATE.—The amendment made by
23 this section shall take effect on the day after the date of
24 the enactment of this Act.



1 **SEC. 121. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY**
2 **INCOME TAX RETURN PREPARER.**

3 (a) STANDARDS CONFORMED TO TAXPAYER STAND-
4 ARDS.—Section 6694(a) (relating to understatements due
5 to unrealistic positions) is amended—

6 (1) by striking “realistic possibility of being
7 sustained on its merits” in paragraph (1) and in-
8 serting “reasonable belief that the tax treatment in
9 such position was more likely than not the proper
10 treatment”,

11 (2) by striking “or was frivolous” in paragraph
12 (3) and inserting “or there was no reasonable basis
13 for the tax treatment of such position”, and

14 (3) by striking “UNREALISTIC” in the heading
15 and inserting “IMPROPER”.

16 (b) AMOUNT OF PENALTY.—Section 6694 is
17 amended—

18 (1) by striking “\$250” in subsection (a) and in-
19 serting “\$1,000”, and

20 (2) by striking “\$1,000” in subsection (b) and
21 inserting “\$5,000”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to documents prepared after the
24 date of the enactment of this Act.



1 **SEC. 122. PENALTY ON FAILURE TO REPORT INTERESTS IN**
2 **FOREIGN FINANCIAL ACCOUNTS.**

3 (a) IN GENERAL.—Section 5321(a)(5) of title 31,
4 United States Code, is amended to read as follows:

5 “(5) FOREIGN FINANCIAL AGENCY TRANS-
6 ACTION VIOLATION.—

7 “(A) PENALTY AUTHORIZED.—The Sec-
8 retary of the Treasury may impose a civil
9 money penalty on any person who violates, or
10 causes any violation of, any provision of section
11 5314.

12 “(B) AMOUNT OF PENALTY.—

13 “(i) IN GENERAL.—Except as pro-
14 vided in subparagraph (C), the amount of
15 any civil penalty imposed under subpara-
16 graph (A) shall not exceed \$5,000.

17 “(ii) REASONABLE CAUSE EXCEP-
18 TION.—No penalty shall be imposed under
19 subparagraph (A) with respect to any vio-
20 lation if—

21 “(I) such violation was due to
22 reasonable cause, and

23 “(II) the amount of the trans-
24 action or the balance in the account
25 at the time of the transaction was
26 properly reported.



1 “(C) WILLFUL VIOLATIONS.—In the case
2 of any person willfully violating, or willfully
3 causing any violation of, any provision of sec-
4 tion 5314—

5 “(i) the maximum penalty under sub-
6 paragraph (B)(i) shall be increased to the
7 greater of—

8 “(I) \$25,000, or

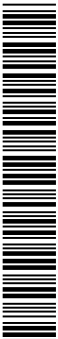
9 “(II) the amount (not exceeding
10 \$100,000) determined under subpara-
11 graph (D), and

12 “(ii) subparagraph (B)(ii) shall not
13 apply.

14 “(D) AMOUNT.—The amount determined
15 under this subparagraph is—

16 “(i) in the case of a violation involving
17 a transaction, the amount of the trans-
18 action, or

19 “(ii) in the case of a violation involv-
20 ing a failure to report the existence of an
21 account or any identifying information re-
22 quired to be provided with respect to an
23 account, the balance in the account at the
24 time of the violation.”



1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to violations occurring after the
3 date of the enactment of this Act.

4 **SEC. 123. FRIVOLOUS TAX SUBMISSIONS.**

5 (a) CIVIL PENALTIES.—Section 6702 is amended to
6 read as follows:

7 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

8 “(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-
9 TURNS.—A person shall pay a penalty of \$5,000 if—

10 “(1) such person files what purports to be a re-
11 turn of a tax imposed by this title but which—

12 “(A) does not contain information on
13 which the substantial correctness of the self-as-
14 sessment may be judged, or

15 “(B) contains information that on its face
16 indicates that the self-assessment is substan-
17 tially incorrect; and

18 “(2) the conduct referred to in paragraph (1)—

19 “(A) is based on a position which the Sec-
20 retary has identified as frivolous under sub-
21 section (c), or

22 “(B) reflects a desire to delay or impede
23 the administration of Federal tax laws.

24 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS
25 SUBMISSIONS.—



1 “(1) IMPOSITION OF PENALTY.—Except as pro-
2 vided in paragraph (3), any person who submits a
3 specified frivolous submission shall pay a penalty of
4 \$5,000.

5 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For
6 purposes of this section—

7 “(A) SPECIFIED FRIVOLOUS SUBMIS-
8 SION.—The term ‘specified frivolous submis-
9 sion’ means a specified submission if any por-
10 tion of such submission—

11 “(i) is based on a position which the
12 Secretary has identified as frivolous under
13 subsection (c), or

14 “(ii) reflects a desire to delay or im-
15 pede the administration of Federal tax
16 laws.

17 “(B) SPECIFIED SUBMISSION.—The term
18 ‘specified submission’ means—

19 “(i) a request for a hearing under—

20 “(I) section 6320 (relating to no-
21 tice and opportunity for hearing upon
22 filing of notice of lien), or

23 “(II) section 6330 (relating to
24 notice and opportunity for hearing be-
25 fore levy), and



1 “(ii) an application under—

2 “(I) section 6159 (relating to
3 agreements for payment of tax liabil-
4 ity in installments),

5 “(II) section 7122 (relating to
6 compromises), or

7 “(III) section 7811 (relating to
8 taxpayer assistance orders).

9 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
10 SION.—If the Secretary provides a person with no-
11 tice that a submission is a specified frivolous sub-
12 mission and such person withdraws such submission
13 within 30 days after such notice, the penalty im-
14 posed under paragraph (1) shall not apply with re-
15 spect to such submission.

16 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
17 retary shall prescribe (and periodically revise) a list of po-
18 sitions which the Secretary has identified as being frivo-
19 lous for purposes of this subsection. The Secretary shall
20 not include in such list any position that the Secretary
21 determines meets the requirement of section
22 6662(d)(2)(B)(ii)(II).

23 “(d) REDUCTION OF PENALTY.—The Secretary may
24 reduce the amount of any penalty imposed under this sec-
25 tion if the Secretary determines that such reduction would



1 promote compliance with and administration of the Fed-
2 eral tax laws.

3 “(e) PENALTIES IN ADDITION TO OTHER PEN-
4 ALTIES.—The penalties imposed by this section shall be
5 in addition to any other penalty provided by law.”

6 (b) TREATMENT OF FRIVOLOUS REQUESTS FOR
7 HEARINGS BEFORE LEVY.—

8 (1) FRIVOLOUS REQUESTS DISREGARDED.—

9 Section 6330 (relating to notice and opportunity for
10 hearing before levy) is amended by adding at the
11 end the following new subsection:

12 “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—
13 Notwithstanding any other provision of this section, if the
14 Secretary determines that any portion of a request for a
15 hearing under this section or section 6320 meets the re-
16 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
17 then the Secretary may treat such portion as if it were
18 never submitted and such portion shall not be subject to
19 any further administrative or judicial review.”

20 (2) PRECLUSION FROM RAISING FRIVOLOUS
21 ISSUES AT HEARING.—Section 6330(c)(4) is
22 amended—

23 (A) by striking “(A)” and inserting
24 “(A)(i)”;

25 (B) by striking “(B)” and inserting “(ii)”;



1 (C) by striking the period at the end of the
2 first sentence and inserting “; or”; and

3 (D) by inserting after subparagraph (A)(ii)
4 (as so redesignated) the following:

5 “(B) the issue meets the requirement of
6 clause (i) or (ii) of section 6702(b)(2)(A).”

7 (3) STATEMENT OF GROUNDS.—Section
8 6330(b)(1) is amended by striking “under sub-
9 section (a)(3)(B)” and inserting “in writing under
10 subsection (a)(3)(B) and states the grounds for the
11 requested hearing”.

12 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR
13 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section
14 6320 is amended—

15 (1) in subsection (b)(1), by striking “under sub-
16 section (a)(3)(B)” and inserting “in writing under
17 subsection (a)(3)(B) and states the grounds for the
18 requested hearing”, and

19 (2) in subsection (c), by striking “and (e)” and
20 inserting “(e), and (g)”.

21 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
22 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
23 MENTS.—Section 7122 is amended by adding at the end
24 the following new subsection:



“(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.”

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

“Sec. 6702. Frivolous tax submissions.”

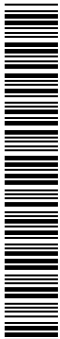
(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

19 SEC. 124. REGULATION OF INDIVIDUALS PRACTICING BE-
20 FORE THE DEPARTMENT OF TREASURY.

21 (a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31,
United States Code, is amended—

24 (A) by inserting “, or censure,” after “De-
25 partment”, and



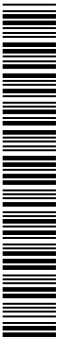
1 (B) by adding at the end the following new
2 flush sentence:

3 “The Secretary may impose a monetary penalty on any
4 representative described in the preceding sentence. If the
5 representative was acting on behalf of an employer or any
6 firm or other entity in connection with the conduct giving
7 rise to such penalty, the Secretary may impose a monetary
8 penalty on such employer, firm, or entity if it knew, or
9 reasonably should have known, of such conduct. Such pen-
10 alty shall not exceed the gross income derived (or to be
11 derived) from the conduct giving rise to the penalty and
12 may be in addition to, or in lieu of, any suspension, disbar-
13 ment, or censure.”

14 (2) EFFECTIVE DATE.—The amendments made
15 by this subsection shall apply to actions taken after
16 the date of the enactment of this Act.

17 (b) TAX SHELTER OPINIONS, ETC.—Section 330 of
18 such title 31 is amended by adding at the end the fol-
19 lowing new subsection:

20 “(d) Nothing in this section or in any other provision
21 of law shall be construed to limit the authority of the Sec-
22 retary of the Treasury to impose standards applicable to
23 the rendering of written advice with respect to any entity,
24 transaction plan or arrangement, or other plan or arrange-



1 ment, which is of a type which the Secretary determines
2 as having a potential for tax avoidance or evasion.”

3 **SEC. 125. PENALTY ON PROMOTERS OF TAX SHELTERS.**

4 (a) PENALTY ON PROMOTING ABUSIVE TAX SHEL-
5 TERS.—Section 6700(a) is amended by adding at the end
6 the following new sentence: “Notwithstanding the first
7 sentence, if an activity with respect to which a penalty
8 imposed under this subsection involves a statement de-
9 scribed in paragraph (2)(A), the amount of the penalty
10 shall be equal to 50 percent of the gross income derived
11 (or to be derived) from such activity by the person on
12 which the penalty is imposed.”

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to activities after the date of the
15 enactment of this Act.

16 **SEC. 126. STATUTE OF LIMITATIONS FOR TAXABLE YEARS**
17 **FOR WHICH LISTED TRANSACTIONS NOT RE-**
18 **PORTED.**

19 (a) IN GENERAL.—Section 6501(e)(1) (relating to
20 substantial omission of items for income taxes) is amended
21 by adding at the end the following new subparagraph:

22 “(C) LISTED TRANSACTIONS.—If a tax-
23 payer fails to include on any return or state-
24 ment for any taxable year any information with
25 respect to a listed transaction (as defined in



1 section 6707A(c)(2)) which is required under
2 section 6011 to be included with such return or
3 statement, the tax for such taxable year may be
4 assessed, or a proceeding in court for collection
5 of such tax may be begun without assessment,
6 at any time within 6 years after the time the
7 return is filed. This subparagraph shall not
8 apply to any taxable year if the time for assess-
9 ment or beginning the proceeding in court has
10 expired before the time a transaction is treated
11 as a listed transaction under section 6011.”

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to transactions after the date of
14 the enactment of this Act in taxable years ending after
15 such date.

16 **SEC. 127. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
17 **DERPAYMENTS ATTRIBUTABLE TO NONDIS-**
18 **CLOSED REPORTABLE AND NONECONOMIC**
19 **SUBSTANCE TRANSACTIONS.**

20 (a) IN GENERAL.—Section 163 (relating to deduction
21 for interest) is amended by redesignating subsection (m)
22 as subsection (n) and by inserting after subsection (l) the
23 following new subsection:

24 “(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE
25 TO NONDISCLOSED REPORTABLE TRANSACTIONS AND



1 NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduc-
2 tion shall be allowed under this chapter for any interest
3 paid or accrued under section 6601 on any underpayment
4 of tax which is attributable to—

5 “(1) the portion of any reportable transaction
6 understatement (as defined in section 6662A(b))
7 with respect to which the requirement of section
8 6664(d)(2)(A) is not met, or

9 “(2) any noneconomic substance transaction
10 understatement (as defined in section 6662B(c)).”

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to transactions after the date of
13 the enactment of this Act in taxable years ending after
14 such date.

15 **Part II—Other Provisions**

16 **SEC. 131. LIMITATION ON TRANSFER OR IMPORTATION OF** 17 **BUILT-IN LOSSES.**

18 (a) IN GENERAL.—Section 362 (relating to basis to
19 corporations) is amended by adding at the end the fol-
20 lowing new subsection:

21 “(e) LIMITATIONS ON BUILT-IN LOSSES.—

22 “(1) LIMITATION ON IMPORTATION OF BUILT-
23 IN LOSSES.—

24 “(A) IN GENERAL.—If in any transaction
25 described in subsection (a) or (b) there would



1 (but for this subsection) be an importation of a
2 net built-in loss, the basis of each property de-
3 scribed in subparagraph (B) which is acquired
4 in such transaction shall (notwithstanding sub-
5 sections (a) and (b)) be its fair market value
6 immediately after such transaction.

7 “(B) PROPERTY DESCRIBED.—For pur-
8 poses of subparagraph (A), property is de-
9 scribed in this paragraph if—

10 “(i) gain or loss with respect to such
11 property is not subject to tax under this
12 subtitle in the hands of the transferor im-
13 mediately before the transfer, and

14 “(ii) gain or loss with respect to such
15 property is subject to such tax in the
16 hands of the transferee immediately after
17 such transfer.

18 In any case in which the transferor is a part-
19 nership, the preceding sentence shall be applied
20 by treating each partner in such partnership as
21 holding such partner’s proportionate share of
22 the property of such partnership.

23 “(C) IMPORTATION OF NET BUILT-IN
24 LOSS.—For purposes of subparagraph (A),
25 there is an importation of a net built-in loss in



1 a transaction if the transferee's aggregate ad-
2 justed bases of property described in subpara-
3 graph (B) which is transferred in such trans-
4 action would (but for this paragraph) exceed
5 the fair market value of such property imme-
6 diately after such transaction."

7 "(2) LIMITATION ON TRANSFER OF BUILT-IN
8 LOSSES IN SECTION 351 TRANSACTIONS.—

9 "(A) IN GENERAL.—If—

10 "(i) property is transferred in any
11 transaction which is described in sub-
12 section (a) and which is not described in
13 paragraph (1) of this subsection, and

14 "(ii) the transferee's aggregate ad-
15 justed bases of the property so transferred
16 would (but for this paragraph) exceed the
17 fair market value of such property imme-
18 diately after such transaction,

19 then, notwithstanding subsection (a), the trans-
20 feree's aggregate adjusted bases of the property
21 so transferred shall not exceed the fair market
22 value of such property immediately after such
23 transaction.

24 "(B) ALLOCATION OF BASIS REDUC-
25 TION.—The aggregate reduction in basis by



1 reason of subparagraph (A) shall be allocated
2 among the property so transferred in proportion
3 to their respective built-in losses immediately
4 before the transaction.

5 “(C) EXCEPTION FOR TRANSFERS WITHIN
6 AFFILIATED GROUP.—Subparagraph (A) shall
7 not apply to any transaction if the transferor
8 owns stock in the transferee meeting the re-
9 quirements of section 1504(a)(2). In the case of
10 property to which subparagraph (A) does not
11 apply by reason of the preceding sentence, the
12 transferor’s basis in the stock received for such
13 property shall not exceed its fair market value
14 immediately after the transfer.”

15 (b) COMPARABLE TREATMENT WHERE LIQUIDA-
16 TION.—Paragraph (1) of section 334(b) (relating to liq-
17 uidation of subsidiary) is amended to read as follows:

18 “(1) IN GENERAL.—If property is received by a
19 corporate distributee in a distribution in a complete
20 liquidation to which section 332 applies (or in a
21 transfer described in section 337(b)(1)), the basis of
22 such property in the hands of such distributee shall
23 be the same as it would be in the hands of the trans-
24 feror; except that the basis of such property in the
25 hands of such distributee shall be the fair market



1 value of the property at the time of the
2 distribution—

3 “(A) in any case in which gain or loss is
4 recognized by the liquidating corporation with
5 respect to such property, or

6 “(B) in any case in which the liquidating
7 corporation is a foreign corporation, the cor-
8 porate distributee is a domestic corporation,
9 and the corporate distributee’s aggregate ad-
10 justed bases of property described in section
11 362(e)(1)(B) which is distributed in such liq-
12 uidation would (but for this subparagraph) ex-
13 ceed the fair market value of such property im-
14 mediately after such liquidation.”

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to transactions after the date of
17 the enactment of this Act.

18 **SEC. 132. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS**
19 **TRANSFERS.**

20 (a) TREATMENT OF CONTRIBUTED PROPERTY WITH
21 BUILT-IN LOSS.—Paragraph (1) of section 704(c) is
22 amended by striking “and” at the end of subparagraph
23 (A), by striking the period at the end of subparagraph
24 (B) and inserting “, and”, and by adding at the end the
25 following:



1 “(C) if any property so contributed has a
2 built-in loss—

3 “(i) such built-in loss shall be taken
4 into account only in determining the
5 amount of items allocated to the contrib-
6 uting partner, and

7 “(ii) except as provided in regulations,
8 in determining the amount of items allo-
9 cated to other partners, the basis of the
10 contributed property in the hands of the
11 partnership shall be treated as being equal
12 to its fair market value immediately after
13 the contribution.

14 For purposes of subparagraph (C), the term ‘built-
15 in loss’ means the excess of the adjusted basis of the
16 property (determined without regard to subpara-
17 graph (C)(ii)) over its fair market value immediately
18 after the contribution.”

19 (b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROP-
20 erty ON TRANSFER OF PARTNERSHIP INTEREST IF
21 THERE IS SUBSTANTIAL BUILT-IN LOSS.—

22 (1) ADJUSTMENT REQUIRED.—Subsection (a)
23 of section 743 (relating to optional adjustment to
24 basis of partnership property) is amended by insert-
25 ing before the period “or unless the partnership has



1 a substantial built-in loss immediately after such
2 transfer”.

3 (2) ADJUSTMENT.—Subsection (b) of section
4 743 is amended by inserting “or with respect to
5 which there is a substantial built-in loss immediately
6 after such transfer” after “section 754 is in effect”.

7 (3) SUBSTANTIAL BUILT-IN LOSS.—Section 743
8 is amended by adding at the end the following new
9 subsection:

10 “(d) SUBSTANTIAL BUILT-IN LOSS.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, a partnership has a substantial built-in loss
13 with respect to a transfer of an interest in a part-
14 nership if the transferee partner’s proportionate
15 share of the adjusted basis of the partnership prop-
16 erty exceeds by more than \$250,000 the basis of
17 such partner’s interest in the partnership.

18 “(2) REGULATIONS.—The Secretary shall pre-
19 scribe such regulations as may be appropriate to
20 carry out the purposes of paragraph (1) and section
21 734(d), including regulations aggregating related
22 partnerships and disregarding property acquired by
23 the partnership in an attempt to avoid such pur-
24 poses.”

25 (4) CLERICAL AMENDMENTS.—



1 (A) The section heading for section 743 is
2 amended to read as follows:

3 **“SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROP-**
4 **ERTY WHERE SECTION 754 ELECTION OR**
5 **SUBSTANTIAL BUILT-IN LOSS.”**

6 (B) The table of sections for subpart C of
7 part II of subchapter K of chapter 1 is amend-
8 ed by striking the item relating to section 743
9 and inserting the following new item:

“Sec. 743. Adjustment to basis of partnership property where sec-
tion 754 election or substantial built-in loss.”

10 (c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED
11 PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL
12 BASIS REDUCTION.—

13 (1) ADJUSTMENT REQUIRED.—Subsection (a)
14 of section 734 (relating to optional adjustment to
15 basis of undistributed partnership property) is
16 amended by inserting before the period “or unless
17 there is a substantial basis reduction”.

18 (2) ADJUSTMENT.—Subsection (b) of section
19 734 is amended by inserting “or unless there is a
20 substantial basis reduction” after “section 754 is in
21 effect”.

22 (3) SUBSTANTIAL BASIS REDUCTION.—Section
23 734 is amended by adding at the end the following
24 new subsection:



1 “(d) SUBSTANTIAL BASIS REDUCTION.—

2 “(1) IN GENERAL.—For purposes of this sec-
3 tion, there is a substantial basis reduction with re-
4 spect to a distribution if the sum of the amounts de-
5 scribed in subparagraphs (A) and (B) of subsection
6 (b)(2) exceeds \$250,000.

7 “(2) REGULATIONS.—

“For regulations to carry out this subsection, see
section 743(d)(2).”

8 (4) CLERICAL AMENDMENTS.—

9 (A) The section heading for section 734 is
10 amended to read as follows:

11 **“SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED**
12 **PARTNERSHIP PROPERTY WHERE SECTION**
13 **754 ELECTION OR SUBSTANTIAL BASIS RE-**
14 **DUCTION.”**

15 (B) The table of sections for subpart B of
16 part II of subchapter K of chapter 1 is amend-
17 ed by striking the item relating to section 734
18 and inserting the following new item:

“Sec. 734. Adjustment to basis of undistributed partnership prop-
erty where section 754 election or substantial basis
reduction.”

19 (d) EFFECTIVE DATES.—

20 (1) SUBSECTION (a).—The amendment made
21 by subsection (a) shall apply to contributions made
22 after the date of the enactment of this Act.



1 (2) SUBSECTION (b).—The amendments made
2 by subsection (b) shall apply to transfers after the
3 date of the enactment of this Act.

4 (3) SUBSECTION (c).—The amendments made
5 by subsection (c) shall apply to distributions after
6 the date of the enactment of this Act.

7 **SEC. 133. NO REDUCTION OF BASIS UNDER SECTION 734 IN**
8 **STOCK HELD BY PARTNERSHIP IN COR-**
9 **PORATE PARTNER.**

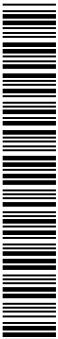
10 (a) IN GENERAL.—Section 755 is amended by adding
11 at the end the following new subsection:

12 “(c) NO ALLOCATION OF BASIS DECREASE TO
13 STOCK OF CORPORATE PARTNER.—In making an alloca-
14 tion under subsection (a) of any decrease in the adjusted
15 basis of partnership property under section 734(b)—

16 “(1) no allocation may be made to stock in a
17 corporation which is a partner in the partnership,
18 and

19 “(2) any amount not allocable to stock by rea-
20 son of paragraph (1) shall be allocated under sub-
21 section (a) to other partnership property.

22 Gain shall be recognized to the partnership to the extent
23 that the amount required to be allocated under paragraph
24 (2) to other partnership property exceeds the aggregate



1 adjusted basis of such other property immediately before
2 the allocation required by paragraph (2).”

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to distributions after the date of
5 the enactment of this Act.

6 **SEC. 134. REPEAL OF SPECIAL RULES FOR FASITS.**

7 (a) IN GENERAL.—Part V of subchapter M of chap-
8 ter 1 (relating to financial asset securitization investment
9 trusts) is hereby repealed.

10 (b) CONFORMING AMENDMENTS.—

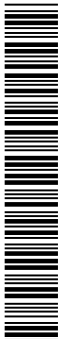
11 (1) Paragraph (6) of section 56(g) is amended
12 by striking “REMIC, or FASIT” and inserting “or
13 REMIC”.

14 (2) Clause (ii) of section 382(l)(4)(B) is amend-
15 ed by striking “a REMIC to which part IV of sub-
16 chapter M applies, or a FASIT to which part V of
17 subchapter M applies,” and inserting “or a REMIC
18 to which part IV of subchapter M applies,”.

19 (3) Paragraph (1) of section 582(c) is amended
20 by striking “, and any regular interest in a
21 FASIT,”.

22 (4) Subparagraph (E) of section 856(c)(5) is
23 amended by striking the last sentence.

24 (5) Paragraph (5) of section 860G(a) is amend-
25 ed by adding “and” at the end of subparagraph (B),



1 by striking “, and” at the end of subparagraph (C)
2 and inserting a period, and by striking subparagraph
3 (D).

4 (6) Subparagraph (C) of section 1202(e)(4) is
5 amended by striking “REMIC, or FASIT” and in-
6 serting “or REMIC”.

7 (7) Subparagraph (C) of section 7701(a)(19) is
8 amended by adding “and” at the end of clause (ix),
9 by striking “, and” at the end of clause (x) and in-
10 serting a period, and by striking clause (xi).

11 (8) The table of parts for subchapter M of
12 chapter 1 is amended by striking the item relating
13 to part V.

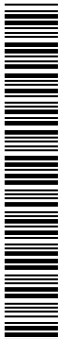
14 (c) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall apply to taxable years beginning after Decem-
18 ber 31, 2003.

19 (2) EXCEPTION FOR EXISTING FASITS.—

20 (A) IN GENERAL.—Paragraph (1) shall not
21 apply to any FASIT in existence on the date of
22 the enactment of this Act.

23 (B) TRANSFER OF ADDITIONAL ASSETS
24 NOT PERMITTED.—Except as provided in regu-
25 lations prescribed by the Secretary of the



1 Treasury or the Secretary's delegate, subpara-
2 graph (A) shall cease to apply as of the earliest
3 date after the date of the enactment of this Act
4 that any property is transferred to the FASIT.

5 **SEC. 135. EXPANDED DISALLOWANCE OF DEDUCTION FOR**
6 **INTEREST ON CONVERTIBLE DEBT.**

7 (a) IN GENERAL.—Paragraph (2) of section 163(l)
8 is amended by striking “or a related party” and inserting
9 “or equity held by the issuer (or any related party) in any
10 other person”.

11 (b) CONFORMING AMENDMENT.—Paragraph (3) of
12 section 163(l) is amended by striking “or a related party”
13 in the material preceding subparagraph (A) and inserting
14 “or any other person”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to debt instruments issued after
17 the date of the enactment of this Act.

18 **SEC. 136. EXPANDED AUTHORITY TO DISALLOW TAX BENE-**
19 **FITS UNDER SECTION 269.**

20 (a) IN GENERAL.—Subsection (a) of section 269 (re-
21 lating to acquisitions made to evade or avoid income tax)
22 is amended to read as follows:

23 “(a) IN GENERAL.—If—

24 “(1)(A) any person acquires stock in a corpora-
25 tion, or



1 “(B) any corporation acquires, directly or indi-
2 rectly, property of another corporation and the basis
3 of such property, in the hands of the acquiring cor-
4 poration, is determined by reference to the basis in
5 the hands of the transferor corporation, and

6 “(2) the principal purpose for which such acqui-
7 sition was made is evasion or avoidance of Federal
8 income tax by securing the benefit of a deduction,
9 credit, or other allowance,
10 then the Secretary may disallow such deduction, credit,
11 or other allowance.”

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to stock and property acquired
14 after February 13, 2003.

15 **SEC. 137. MODIFICATIONS OF CERTAIN RULES RELATING**
16 **TO CONTROLLED FOREIGN CORPORATIONS.**

17 (a) LIMITATION ON EXCEPTION FROM PFIC RULES
18 FOR UNITED STATES SHAREHOLDERS OF CONTROLLED
19 FOREIGN CORPORATIONS.—Paragraph (2) of section
20 1297(e) (relating to passive investment company) is
21 amended by adding at the end the following flush sen-
22 tence:

23 “Such term shall not include any period if there is
24 only a remote likelihood of an inclusion in gross in-



1 come under section 951(a)(1)(A)(i) of subpart F in-
2 come of such corporation for such period.”

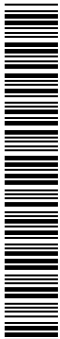
3 (b) DETERMINATION OF PRO RATA SHARE OF SUB-
4 PART F INCOME.—Subsection (a) of section 951 (relating
5 to amounts included in gross income of United States
6 shareholders) is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(4) SPECIAL RULES FOR DETERMINING PRO
9 RATA SHARE OF SUBPART F INCOME.—The pro rata
10 share under paragraph (2) shall be determined by
11 disregarding—

12 “(A) any rights lacking substantial eco-
13 nomic effect, and

14 “(B) stock owned by a shareholder who is
15 a tax-indifferent party (as defined in section
16 7701(m)(3)) if the amount which would (but
17 for this paragraph) be allocated to such share-
18 holder does not reflect such shareholder’s eco-
19 nomic share of the earnings and profits of the
20 corporation.”

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years on controlled for-
23 eign corporation beginning after February 13, 2003, and
24 to taxable years of United States shareholder in which or



1 with which such taxable years of controlled foreign cor-
2 porations end.

3 **SEC. 138. BASIS FOR DETERMINING LOSS ALWAYS RE-**
4 **DUCTED BY NONTAXED PORTION OF DIVI-**
5 **DENDS.**

6 (a) IN GENERAL.—Section 1059 (relating to cor-
7 porate shareholder's basis in stock reduced by nontaxed
8 portion of extraordinary dividends) is amended by redesignig-
9 nating subsection (g) as subsection (h) and by inserting
10 after subsection (f) the following new subsection:

11 “(g) BASIS FOR DETERMINING LOSS ALWAYS RE-
12 DUCTED BY NONTAXED PORTION OF DIVIDENDS.—The
13 basis of stock in a corporation (for purposes of deter-
14 mining loss) shall be reduced by the nontaxed portion of
15 any dividend received with respect to such stock if this
16 section does not otherwise apply to such dividend.”

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to dividends received after the date
19 of the enactment of this Act.

20 **SEC. 139. AFFIRMATION OF CONSOLIDATED RETURN REGU-**
21 **LATION AUTHORITY.**

22 (a) IN GENERAL.—Section 1502 (relating to consoli-
23 dated return regulations) is amended by adding at the end
24 the following new sentence: “In prescribing such regula-
25 tions, the Secretary may prescribe rules applicable to cor-



1 porations filing consolidated returns under section 1501
2 that are different from other provisions of this title that
3 would apply if such corporations filed separate returns.”

4 (b) RESULT NOT OVERTURNED.—Notwithstanding
5 subsection (a), the Internal Revenue Code of 1986 shall
6 be construed by treating Treasury regulation § 1.1502–
7 20(c)(1)(iii) (as in effect on January 1, 2001) as being
8 inapplicable to the type of factual situation in 255 F.3d
9 1357 (Fed. Cir. 2001).

10 (c) EFFECTIVE DATE.—The provisions of this section
11 shall apply to taxable years beginning before, on, or after
12 the date of the enactment of this Act.

13 **Subtitle B—Prevention of Cor-**
14 **porate Expatriation to Avoid**
15 **United States Income Tax**

16 **SEC. 151. PREVENTION OF CORPORATE EXPATRIATION TO**
17 **AVOID UNITED STATES INCOME TAX.**

18 (a) IN GENERAL.—Paragraph (4) of section 7701(a)
19 (defining domestic) is amended to read as follows:

20 “(4) DOMESTIC.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), the term ‘domestic’ when ap-
23 plied to a corporation or partnership means cre-
24 ated or organized in the United States or under
25 the law of the United States or of any State



1 unless, in the case of a partnership, the Sec-
2 retary provides otherwise by regulations.

3 “(B) CERTAIN CORPORATIONS TREATED
4 AS DOMESTIC.—

5 “(i) IN GENERAL.—The acquiring cor-
6 poration in a corporate expatriation trans-
7 action shall be treated as a domestic cor-
8 poration.

9 “(ii) CORPORATE EXPATRIATION
10 TRANSACTION.—For purposes of this sub-
11 paragraph, the term ‘corporate expatria-
12 tion transaction’ means any transaction
13 if—

14 “(I) a nominally foreign corpora-
15 tion (referred to in this subparagraph
16 as the ‘acquiring corporation’) ac-
17 quires, as a result of such transaction,
18 directly or indirectly substantially all
19 of the properties held directly or indi-
20 rectly by a domestic corporation, and

21 “(II) immediately after the trans-
22 action, more than 80 percent of the
23 stock (by vote or value) of the acquir-
24 ing corporation is held by former
25 shareholders of the domestic corpora-



1 tion by reason of holding stock in the
2 domestic corporation.

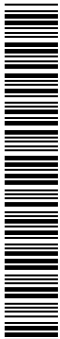
3 “(iii) LOWER STOCK OWNERSHIP RE-
4 QUIREMENT IN CERTAIN CASES.—Sub-
5 clause (II) of clause (ii) shall be applied by
6 substituting ‘50 percent’ for ‘80 percent’
7 with respect to any nominally foreign cor-
8 poration if—

9 “(I) such corporation does not
10 have substantial business activities
11 (when compared to the total business
12 activities of the expanded affiliated
13 group) in the foreign country in which
14 or under the law of which the corpora-
15 tion is created or organized, and

16 “(II) the stock of the corporation
17 is publicly traded and the principal
18 market for the public trading of such
19 stock is in the United States.

20 “(iv) PARTNERSHIP TRANSACTIONS.—
21 The term ‘corporate expatriation trans-
22 action’ includes any transaction if—

23 “(I) a nominally foreign corpora-
24 tion (referred to in this subparagraph
25 as the ‘acquiring corporation’) ac-



1 quires, as a result of such transaction,
2 directly or indirectly properties consti-
3 tuting a trade or business of a domes-
4 tic partnership,

5 “(II) immediately after the trans-
6 action, more than 80 percent of the
7 stock (by vote or value) of the acquir-
8 ing corporation is held by former
9 partners of the domestic partnership
10 or related foreign partnerships (deter-
11 mined without regard to stock of the
12 acquiring corporation which is sold in
13 a public offering related to the trans-
14 action), and

15 “(III) the acquiring corporation
16 meets the requirements of subclauses
17 (I) and (II) of clause (iii).

18 “(v) SPECIAL RULES.—For purposes
19 of this subparagraph—

20 “(I) a series of related trans-
21 actions shall be treated as 1 trans-
22 action, and

23 “(II) stock held by members of
24 the expanded affiliated group which
25 includes the acquiring corporation



1 shall not be taken into account in de-
2 termining ownership.

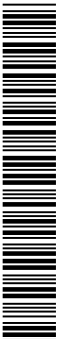
3 “(vi) OTHER DEFINITIONS.—For pur-
4 poses of this subparagraph—

5 “(I) NOMINALLY FOREIGN COR-
6 PORATION.—The term ‘nominally for-
7 eign corporation’ means any corpora-
8 tion which would (but for this sub-
9 paragraph) be treated as a foreign
10 corporation.

11 “(II) EXPANDED AFFILIATED
12 GROUP.—The term ‘expanded affili-
13 ated group’ means an affiliated group
14 (as defined in section 1504(a) without
15 regard to section 1504(b)).

16 “(III) RELATED FOREIGN PART-
17 NERSHIP.—A foreign partnership is
18 related to a domestic partnership if
19 they are under common control (with-
20 in the meaning of section 482), or
21 they shared the same trademark or
22 tradename.”

23 (b) EFFECTIVE DATES.—



1 (1) IN GENERAL.—The amendment made by
2 this section shall apply to corporate expatriation
3 transactions completed after September 11, 2001.

4 (2) SPECIAL RULE.—The amendment made by
5 this section shall also apply to corporate expatriation
6 transactions completed on or before September 11,
7 2001, but only with respect to taxable years of the
8 acquiring corporation beginning after December 31,
9 2003.

10 **TITLE II—SIMPLIFICATION OF**
11 **EARNED INCOME TAX CREDIT**

12 **SEC. 201. SIMPLIFICATION OF EARNED INCOME TAX CRED-**
13 **IT.**

14 (a) REPEAL OF DENIAL OF CREDIT WHERE INVEST-
15 MENT INCOME.—Section 32 is amended by striking sub-
16 section (i).

17 (b) EARNED INCOME TO INCLUDE ONLY AMOUNTS
18 INCLUDIBLE IN GROSS INCOME.—Section 32(c)(2)(B) is
19 amended by striking “and” at the end of clause (iv), by
20 striking the period at the end of clause (v) and inserting
21 “, and”, and by adding at the end the following new
22 clause:

23 “(vi) the requirement under subparagraph
24 (A)(i) that an amount be includible in
25 gross income shall not apply if such



1 amount is exempt from tax under section
2 7873 or is derived directly from restricted
3 and allotted land under the Act of Feb-
4 ruary 8, 1887 (commonly known as the In-
5 dian General Allotment Act) (25 U.S.C.
6 331 et seq.) or from land held under Acts
7 or treaties containing an exception provi-
8 sion similar to the Indian General Allot-
9 ment Act.”

10 (c) MODIFICATION OF JOINT RETURN REQUIRE-
11 MENT.—Subsection (d) of section 32 is amended to read
12 as follows:

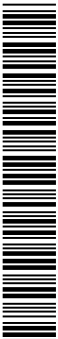
13 “(d) MARRIED INDIVIDUALS.—

14 “(1) IN GENERAL.—If the taxpayer is married
15 at the close of the taxable year, the credit shall be
16 allowed under subsection (a) only if the taxpayer
17 and his spouse file a joint return for the taxable
18 year.

19 “(2) MARITAL STATUS.—For purposes of para-
20 graph (1), an individual legally separated from his
21 spouse under a decree of divorce or of separate
22 maintenance shall not be considered as married.

23 “(3) CERTAIN MARRIED INDIVIDUALS LIVING
24 APART.—For purposes of paragraph (1), if—

25 “(A) an individual —



1 “(i) is married and files a separate re-
2 turn, and

3 “(ii) has a qualifying child who is a
4 son, daughter, stepson, or stepdaughter of
5 such individual, and

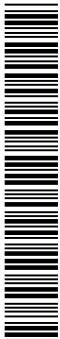
6 “(B) during the last 6 months of such tax-
7 able year, such individual and such individual’s
8 spouse do not have the same principal place of
9 abode,

10 such individual shall not be considered as married.”

11 (d) EXPANSION OF MATHEMATICAL ERROR AUTHOR-
12 ITY.—Paragraph (2) of section 6213(g) is amended by
13 striking “and” at the end of subparagraph (K), by striking
14 the period at the end of subparagraph (L) and inserting
15 “, and”, and by inserting after subparagraph (L) the fol-
16 lowing new subparagraph:

17 “(M) the entry on the return claiming the
18 credit under section 32 with respect to a child
19 if, according to the Federal Case Registry of
20 Child Support Orders established under section
21 453(h) of the Social Security Act, the taxpayer
22 is a noncustodial parent of such child.”

23 (e) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2003.



1 **SEC. 202. PROFILING OF EARNED INCOME TAX CREDIT**
2 **BENEFICIARIES.**

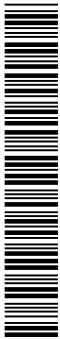
3 (a) FINDINGS.—The Congress hereby finds that:

4 (1) Current law authorizes the Internal Revenue Service to impose additional earned income tax credit eligibility requirements, such as the current recertification program, only in cases in which a taxpayer has made prior improper claims of the earned income tax credit.

10 (2) The Internal Revenue Service is planning to implement an earned income tax credit precertification program that differs from what is authorized under current law in that it would apply to taxpayers who fall within broad categories even though they made no prior improper claims for the credit.

17 (3) There is no precedent in the Internal Revenue Code of 1986 for denying or delaying a tax refund that is apparently properly claimed on a tax return merely because the taxpayer meets a certain profile.

22 (4) The proposed earned income tax credit precertification program is an affront to our sense of fairness because compliant taxpayers are treated differently solely by reason of differing family structures or relationships and solely by reason of the



1 fact that they are claiming a tax benefit designed to
2 assist the working poor.

3 (5) No other family-related tax benefit, such as
4 the dependency exemption or child tax credit, is sub-
5 ject to such a precertification requirement; and there
6 is no such precertification requirement for abusive
7 tax shelters purchased by corporations or for tax
8 benefits claimed by higher income individuals.

9 (b) PROPOSED EITC PROFILING NOT PER-
10 MITTED.—The Internal Revenue Service shall not imple-
11 ment any system of precertification for the earned income
12 tax credit that applies to taxpayers who have not made
13 prior improper claims unless such a system is hereafter
14 specifically authorized by law.

15 **TITLE III—TAXPAYER PROTEC-**
16 **TIONS AND IRS ACCOUNT-**
17 **ABILITY**

18 **Subtitle A—Penalty and Interest**
19 **Reforms**

20 **SEC. 301. FAILURE TO PAY ESTIMATED TAX PENALTY CON-**
21 **VERTED TO INTEREST CHARGE ON ACCUMU-**
22 **LATED UNPAID BALANCE.**

23 (a) PENALTY MOVED TO INTEREST CHAPTER OF
24 CODE.—The Internal Revenue Code of 1986 is amended
25 by redesignating section 6654 as section 6641 and by



1 moving section 6641 (as so redesignated) from part I of
2 subchapter A of chapter 68 to the end of subchapter E
3 of chapter 67 (as added by subsection (e)(1) of this sec-
4 tion).

5 (b) PENALTY CONVERTED TO INTEREST CHARGE.—
6 The heading and subsections (a) and (b) of section 6641
7 (as so redesignated) are amended to read as follows:

8 **“SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY**
9 **ESTIMATED INCOME TAX.**

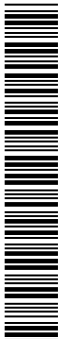
10 “(a) IN GENERAL.—Interest shall be paid on any un-
11 derpayment of estimated tax by an individual for a taxable
12 year for each day of such underpayment. The amount of
13 such interest for any day shall be the product of the un-
14 derpayment rate established under subsection (b)(2) mul-
15 tiplied by the amount of the underpayment.

16 “(b) AMOUNT OF UNDERPAYMENT; INTEREST
17 RATE.—For purposes of subsection (a)—

18 “(1) AMOUNT.—The amount of the under-
19 payment on any day shall be the excess of—

20 “(A) the sum of the required installments
21 for the taxable year the due dates for which are
22 on or before such day, over

23 “(B) the sum of the amounts (if any) of
24 estimated tax payments made on or before such
25 day on such required installments.



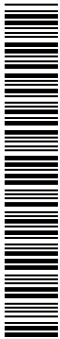
1 “(2) DETERMINATION OF INTEREST RATE.—

2 “(A) IN GENERAL.—The underpayment
3 rate with respect to any day in an installment
4 underpayment period shall be the under-
5 payment rate established under section 6621
6 for the first day of the calendar quarter in
7 which such installment underpayment period
8 begins.

9 “(B) INSTALLMENT UNDERPAYMENT PE-
10 RIOD.—For purposes of subparagraph (A), the
11 term ‘installment underpayment period’ means
12 the period beginning on the day after the due
13 date for a required installment and ending on
14 the due date for the subsequent required in-
15 stallment (or in the case of the 4th required in-
16 stallment, the 15th day of the 4th month fol-
17 lowing the close of a taxable year).

18 “(C) DAILY RATE.—The rate determined
19 under subparagraph (A) shall be applied on a
20 daily basis and shall be based on the assump-
21 tion of 365 days in a calendar year.

22 “(3) TERMINATION OF ESTIMATED TAX INTER-
23 EST.—No day after the end of the installment un-
24 derpayment period for the 4th required installment
25 specified in paragraph (2)(B) for a taxable year



1 shall be treated as a day of underpayment with re-
2 spect to such taxable year.”.

3 (c) INCREASE IN SAFE HARBOR WHERE TAX IS
4 SMALL.—

5 (1) IN GENERAL.—Clause (i) of section
6 6641(d)(1)(B) (as so redesignated) is amended to
7 read as follows:

8 “(i) the lesser of—

9 “(I) 90 percent of the tax shown
10 on the return for the taxable year (or,
11 if no return is filed, 90 percent of the
12 tax for such year), or

13 “(II) the tax shown on the return
14 for the taxable year (or, if no return
15 is filed, the tax for such year) reduced
16 (but not below zero) by \$1,600, or”.

17 (2) CONFORMING AMENDMENT.—Subsection (e)
18 of section 6641 (as so redesignated) is amended by
19 striking paragraph (1) and redesignating paragraphs
20 (2) and (3) as paragraphs (1) and (2), respectively.

21 (d) CONFORMING AMENDMENTS.—

22 (1) Paragraphs (1) and (2) of subsection (e)
23 (as redesignated by subsection (c)(2)) and sub-
24 section (h) of section 6641 (as so designated) are



1 each amended by striking “addition to tax” each
2 place it occurs and inserting “interest”.

3 (2) Section 167(g)(5)(D) is amended by strik-
4 ing “6654” and inserting “6641”.

5 (3) Section 460(b)(1) is amended by striking
6 “6654” and inserting “6641”.

7 (4) Section 3510(b) is amended—

8 (A) by striking “section 6654” in para-
9 graph (1) and inserting “section 6641”;

10 (B) by amending paragraph (2)(B) to read
11 as follows:

12 “(B) no interest would be required to be
13 paid (but for this section) under 6641 for such
14 taxable year by reason of the \$1,600 amount
15 specified in section 6641(d)(1)(B)(i)(II).”;

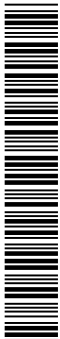
16 (C) by striking “section 6654(d)(2)” in
17 paragraph (3) and inserting “section
18 6641(d)(2)”; and

19 (D) by striking paragraph (4).

20 (5) Section 6201(b)(1) is amended by striking
21 “6654” and inserting “6641”.

22 (6) Section 6601(h) is amended by striking
23 “6654” and inserting “6641”.

24 (7) Section 6621(b)(2)(B) is amended by strik-
25 ing “addition to tax under section 6654” and insert-



1 ing “interest required to be paid under section
2 6641”.

3 (8) Section 6622(b) is amended—

4 (A) by striking “PENALTY FOR” in the
5 heading; and

6 (B) by striking “addition to tax under sec-
7 tion 6654 or 6655” and inserting “interest re-
8 quired to be paid under section 6641 or addi-
9 tion to tax under section 6655”.

10 (9) Section 6658(a) is amended—

11 (A) by striking “6654, or 6655” and in-
12 serting “or 6655, and no interest shall be re-
13 quired to be paid under section 6641,”; and

14 (B) by inserting “or paying interest” after
15 “the tax” in paragraph (2)(B)(ii).

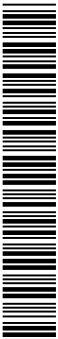
16 (10) Section 6665(b) is amended—

17 (A) in the matter preceding paragraph (1)
18 by striking “, 6654,”; and

19 (B) in paragraph (2) by striking “6654
20 or”.

21 (11) Section 7203 is amended by striking “sec-
22 tion 6654 or 6655” and inserting “section 6655 or
23 interest required to be paid under section 6641”.

24 (e) CLERICAL AMENDMENTS.—



1 (1) Chapter 67 is amended by inserting after
2 subchapter D the following:

3 **“Subchapter E—Interest on Failure by**
4 **Individual to Pay Estimated Income Tax**

“Sec. 6641. Interest on failure by individual to pay estimated in-
come tax.”.

5 (2) The table of subchapters for chapter 67 is
6 amended by adding at the end the following new
7 items:

“Subchapter D. Notice requirements.

“Subchapter E. Interest on failure by individual to pay estimated
income tax.”.

8 (3) The table of sections for part I of sub-
9 chapter A of chapter 68 is amended by striking the
10 item relating to section 6654.

11 (f) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to installment payments for taxable
13 years beginning after December 31, 2003.

14 **SEC. 302. ABATEMENT OF INTEREST.**

15 (a) ABATEMENT OF INTEREST WITH RESPECT TO
16 ERRONEOUS REFUND CHECK WITHOUT REGARD TO SIZE
17 OF REFUND.—Paragraph (2) of section 6404(e) is amend-
18 ed by striking “unless—” and all that follows and insert-
19 ing “unless the taxpayer (or a related party) has in any
20 way caused such erroneous refund.”.

21 (b) ABATEMENT OF INTEREST TO EXTENT INTER-
22 EST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON



1 WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of
2 section 6404 is amended—

3 (1) in the subsection heading, by striking
4 “PENALTY OR ADDITION” and inserting “INTEREST,
5 PENALTY, OR ADDITION”; and

6 (2) in paragraph (1) and in subparagraph (B)
7 of paragraph (2), by striking “penalty or addition”
8 and inserting “interest, penalty, or addition”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply with respect to interest accruing
11 on or after the date of the enactment of this Act.

12 **SEC. 303. DEPOSITS MADE TO SUSPEND RUNNING OF IN-**
13 **TEREST ON POTENTIAL UNDERPAYMENTS.**

14 (a) IN GENERAL.—Subchapter A of chapter 67 (re-
15 lating to interest on underpayments) is amended by add-
16 ing at the end the following new section:

17 **“SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF IN-**
18 **TEREST ON POTENTIAL UNDERPAYMENTS,**
19 **ETC.**

20 “(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN
21 AS PAYMENT OF TAX.—A taxpayer may make a cash de-
22 posit with the Secretary which may be used by the Sec-
23 retary to pay any tax imposed under subtitle A or B or
24 chapter 41, 42, 43, or 44 which has not been assessed



1 at the time of the deposit. Such a deposit shall be made
2 in such manner as the Secretary shall prescribe.

3 “(b) NO INTEREST IMPOSED.—To the extent that
4 such deposit is used by the Secretary to pay tax, for pur-
5 poses of section 6601 (relating to interest on underpay-
6 ments), the tax shall be treated as paid when the deposit
7 is made.

8 “(c) RETURN OF DEPOSIT.—Except in a case where
9 the Secretary determines that collection of tax is in jeop-
10 ardy, the Secretary shall return to the taxpayer any
11 amount of the deposit (to the extent not used for a pay-
12 ment of tax) which the taxpayer requests in writing.

13 “(d) PAYMENT OF INTEREST.—

14 “(1) IN GENERAL.—For purposes of section
15 6611 (relating to interest on overpayments), a de-
16 posit which is returned to a taxpayer shall be treated
17 as a payment of tax for any period to the extent
18 (and only to the extent) attributable to a disputable
19 tax for such period. Under regulations prescribed by
20 the Secretary, rules similar to the rules of section
21 6611(b)(2) shall apply.

22 “(2) DISPUTABLE TAX.—

23 “(A) IN GENERAL.—For purposes of this
24 section, the term ‘disputable tax’ means the
25 amount of tax specified at the time of the de-



1 posit as the taxpayer's reasonable estimate of
2 the maximum amount of any tax attributable to
3 disputable items.

4 “(B) SAFE HARBOR BASED ON 30-DAY
5 LETTER.—In the case of a taxpayer who has
6 been issued a 30-day letter, the maximum
7 amount of tax under subparagraph (A) shall
8 not be less than the amount of the proposed de-
9 ficiency specified in such letter.

10 “(3) OTHER DEFINITIONS.—For purposes of
11 paragraph (2)—

12 “(A) DISPUTABLE ITEM.—The term ‘dis-
13 putable item’ means any item of income, gain,
14 loss, deduction, or credit if the taxpayer—

15 “(i) has a reasonable basis for its
16 treatment of such item, and

17 “(ii) reasonably believes that the Sec-
18 retary also has a reasonable basis for dis-
19 allowing the taxpayer's treatment of such
20 item.

21 “(B) 30-DAY LETTER.—The term ‘30-day
22 letter’ means the first letter of proposed defi-
23 ciency which allows the taxpayer an opportunity
24 for administrative review in the Internal Rev-
25 enue Service Office of Appeals.



1 “(4) RATE OF INTEREST.—The rate of interest
2 allowable under this subsection shall be the Federal
3 short-term rate determined under section 6621(b),
4 compounded daily.

5 “(e) USE OF DEPOSITS.—

6 “(1) PAYMENT OF TAX.—Except as otherwise
7 provided by the taxpayer, deposits shall be treated
8 as used for the payment of tax in the order depos-
9 ited.

10 “(B) RETURNS OF DEPOSITS.—Deposits shall
11 be treated as returned to the taxpayer on a last-in,
12 first-out basis.”.

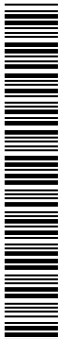
13 (b) CLERICAL AMENDMENT.—The table of sections
14 for subchapter A of chapter 67 is amended by adding at
15 the end the following new item:

 “Sec. 6603. Deposits made to suspend running of interest on po-
 tential underpayments, etc.”.

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—The amendments made by
18 this section shall apply to deposits made after the
19 date of the enactment of this Act.

20 (2) COORDINATION WITH DEPOSITS MADE
21 UNDER REVENUE PROCEDURE 84–58.—In the case of
22 an amount held by the Secretary of the Treasury or
23 his delegate on the date of the enactment of this Act
24 as a deposit in the nature of a cash bond deposit



1 pursuant to Revenue Procedure 84–58, the date that
2 the taxpayer identifies such amount as a deposit
3 made pursuant to section 6603 of the Internal Rev-
4 enue Code (as added by this Act) shall be treated as
5 the date such amount is deposited for purposes of
6 such section 6603.

7 **SEC. 304. EXPANSION OF INTEREST NETTING FOR INDIVID-**
8 **UALS.**

9 (a) IN GENERAL.—Subsection (d) of section 6621
10 (relating to elimination of interest on overlapping periods
11 of tax overpayments and underpayments) is amended by
12 adding at the end the following: “Solely for purposes of
13 the preceding sentence, section 6611(e) shall not apply in
14 the case of an individual.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall apply to interest accrued after Decem-
17 ber 31, 2003.

18 **SEC. 305. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME**
19 **UNINTENTIONAL MINOR ERRORS.**

20 (a) IN GENERAL.—Section 6651 (relating to failure
21 to file tax return or to pay tax) is amended by adding
22 at the end the following new subsection:

23 “(i) TREATMENT OF FIRST-TIME UNINTENTIONAL
24 MINOR ERRORS.—



1 “(1) IN GENERAL.—In the case of a return of
2 tax imposed by subtitle A filed by an individual, the
3 Secretary may waive an addition to tax under sub-
4 section (a) if—

5 “(A) the individual has a history of compli-
6 ance with the requirements of this title,

7 “(B) it is shown that the failure is due to
8 an unintentional minor error,

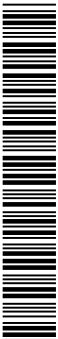
9 “(C) the penalty would be grossly dis-
10 proportionate to the action or expense that
11 would have been needed to avoid the error, and
12 imposing the penalty would be against equity
13 and good conscience,

14 “(D) waiving the penalty would promote
15 compliance with the requirements of this title
16 and effective tax administration, and

17 “(E) the taxpayer took all reasonable steps
18 to remedy the error promptly after discovering
19 it.

20 “(2) EXCEPTIONS.—Paragraph (1) shall not
21 apply if—

22 “(A) the Secretary has waived any addition
23 to tax under this subsection with respect to any
24 prior failure by such individual,



1 “(B) the failure is a mathematical or cler-
2 ical error (as defined in section 6213(g)(2)), or

3 “(C) the failure is the lack of a required
4 signature.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall take effect on January 1, 2004.

7 **SEC. 306. FRIVOLOUS TAX SUBMISSIONS.**

8 (a) CIVIL PENALTIES.—Section 6702 is amended to
9 read as follows:

10 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

11 “(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-
12 TURNS.—A person shall pay a penalty of \$5,000 if—

13 “(1) such person files what purports to be a re-
14 turn of a tax imposed by this title but which—

15 “(A) does not contain information on
16 which the substantial correctness of the self-as-
17 sessment may be judged, or

18 “(B) contains information that on its face
19 indicates that the self-assessment is substan-
20 tially incorrect; and

21 “(2) the conduct referred to in paragraph (1)—

22 “(A) is based on a position which the Sec-
23 retary has identified as frivolous under sub-
24 section (c), or



1 “(B) reflects a desire to delay or impede
2 the administration of Federal tax laws.

3 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS
4 SUBMISSIONS.—

5 “(1) IMPOSITION OF PENALTY.—Except as pro-
6 vided in paragraph (3), any person who submits a
7 specified frivolous submission shall pay a penalty of
8 \$5,000.

9 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For
10 purposes of this section—

11 “(A) SPECIFIED FRIVOLOUS SUBMIS-
12 SION.—The term ‘specified frivolous submis-
13 sion’ means a specified submission if any por-
14 tion of such submission is based on a position
15 which the Secretary has identified as frivolous
16 under subsection (c).

17 “(B) SPECIFIED SUBMISSION.—The term
18 ‘specified submission’ means—

19 “(i) a request for a hearing under—

20 “(I) section 6320 (relating to no-
21 tice and opportunity for hearing upon
22 filing of notice of lien), or

23 “(II) section 6330 (relating to
24 notice and opportunity for hearing be-
25 fore levy), and



1 “(ii) an application under—

2 “(I) section 7811 (relating to
3 taxpayer assistance orders),

4 “(II) section 6159 (relating to
5 agreements for payment of tax liabil-
6 ity in installments), or

7 “(III) section 7122 (relating to
8 compromises).

9 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
10 SION.—If the Secretary provides a person with no-
11 tice that a submission is a specified frivolous sub-
12 mission and such person withdraws such submission
13 within 30 days after such notice, the penalty im-
14 posed under paragraph (1) shall not apply with re-
15 spect to such submission.

16 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
17 retary shall prescribe (and periodically revise) a list of po-
18 sitions which the Secretary has identified as being frivo-
19 lous for purposes of this subsection. The Secretary shall
20 not include in such list any position that the Secretary
21 determines meets the requirement of section
22 6662(d)(2)(B)(ii)(II).

23 “(d) REDUCTION OF PENALTY.—The Secretary may
24 reduce the amount of any penalty imposed under this sec-
25 tion if the Secretary determines that such reduction would



1 promote compliance with and administration of the Fed-
2 eral tax laws.

3 “(e) PENALTIES IN ADDITION TO OTHER PEN-
4 ALTIES.—The penalties imposed by this section shall be
5 in addition to any other penalty provided by law.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 for part I of subchapter B of chapter 68 is amended by
8 striking the item relating to section 6702 and inserting
9 the following new item:

“Sec. 6702. Frivolous tax submissions.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to submissions made and issues
12 raised after the date on which the Secretary first pre-
13 scribes a list under section 6702(c) of the Internal Rev-
14 enue Code of 1986, as amended by subsection (a).

15 **SEC. 307. CLARIFICATION OF APPLICATION OF FEDERAL**
16 **TAX DEPOSIT PENALTY.**

17 Nothing in section 6656 of the Internal Revenue
18 Code of 1986 shall be construed to permit the percentage
19 specified in subsection (b)(1)(A)(iii) thereof to apply other
20 than in a case where the failure is for more than 15 days.

21 **Subtitle B—Fairness of Collection**
22 **Procedures**

23 **SEC. 311. PARTIAL PAYMENT OF TAX LIABILITY IN IN-**
24 **STALLMENT AGREEMENTS.**

25 (a) IN GENERAL.—



1 (1) Section 6159(a) (relating to authorization
2 of agreements) is amended—

3 (A) by striking “satisfy liability for pay-
4 ment of” and inserting “make payment on”,
5 and

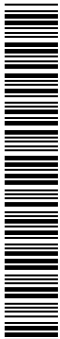
6 (B) by inserting “full or partial” after “fa-
7 cilitate”.

8 (2) Section 6159(c) (relating to Secretary re-
9 quired to enter into installment agreements in cer-
10 tain cases) is amended in the matter preceding para-
11 graph (1) by inserting “full” before “payment”.

12 (b) REQUIREMENT TO REVIEW PARTIAL PAYMENT
13 AGREEMENTS EVERY TWO YEARS.—Section 6159 is
14 amended by redesignating subsections (d) and (e) as sub-
15 sections (e) and (f), respectively, and inserting after sub-
16 section (c) the following new subsection:

17 “(d) SECRETARY REQUIRED TO REVIEW INSTALL-
18 MENT AGREEMENTS FOR PARTIAL COLLECTION EVERY
19 TWO YEARS.—In the case of an agreement entered into
20 by the Secretary under subsection (a) for partial collection
21 of a tax liability, the Secretary shall review the agreement
22 at least once every 2 years.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to agreements entered into on or
25 after the date of the enactment of this Act.



1 **SEC. 312. EXTENSION OF TIME FOR RETURN OF PROPERTY.**

2 (a) EXTENSION OF TIME FOR RETURN OF PROPERTY
3 SUBJECT TO LEVY.—Subsection (b) of section 6343 (re-
4 lating to return of property) is amended by striking “9
5 months” and inserting “2 years”.

6 (b) PERIOD OF LIMITATION ON SUITS.—Subsection
7 (c) of section 6532 (relating to suits by persons other than
8 taxpayers) is amended—

9 (1) in paragraph (1) by striking “9 months”
10 and inserting “2 years”, and

11 (2) in paragraph (2) by striking “9-month” and
12 inserting “2-year”.

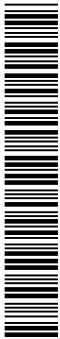
13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to—

15 (1) levies made after the date of the enactment
16 of this Act, and

17 (2) levies made on or before such date if the 9-
18 month period has not expired under section 6343(b)
19 of the Internal Revenue Code of 1986 (without re-
20 gard to this section) as of such date.

21 **SEC. 313. INDIVIDUALS HELD HARMLESS ON WRONGFUL**
22 **LEVY, ETC., ON INDIVIDUAL RETIREMENT**
23 **PLAN.**

24 (a) IN GENERAL.—Section 6343 (relating to author-
25 ity to release levy and return property) is amended by add-
26 ing at the end the following new subsection:



1 “(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL
2 LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

3 “(1) IN GENERAL.—If the Secretary determines
4 that an individual retirement plan has been levied
5 upon in a case to which subsection (b) or (d)(2)(A)
6 applies, an amount equal to the sum of—

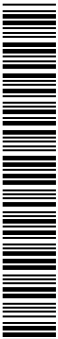
7 “(A) the amount of money returned by the
8 Secretary on account of such levy, and

9 “(B) interest paid under subsection (c) on
10 such amount of money,
11 may be deposited into an individual retirement plan
12 (other than an endowment contract) to which a roll-
13 over from the plan levied upon is permitted.

14 “(2) TREATMENT AS ROLLOVER.—The distribu-
15 tion on account of the levy and any deposit under
16 paragraph (1) with respect to such distribution shall
17 be treated for purposes of this title as if such dis-
18 tribution and deposit were part of a rollover de-
19 scribed in section 408(d)(3)(A)(i); except that—

20 “(A) interest paid under subsection (c)
21 shall be treated as part of such distribution and
22 as not includible in gross income,

23 “(B) the 60-day requirement in such sec-
24 tion shall be treated as met if the deposit is
25 made not later than the 60th day after the day



1 on which the individual receives an amount
2 under paragraph (1) from the Secretary, and

3 “(C) such deposit shall not be taken into
4 account under section 408(d)(3)(B).

5 “(3) REFUND, ETC., OF INCOME TAX ON
6 LEVY.—If any amount is includible in gross income
7 for a taxable year by reason of a levy referred to in
8 paragraph (1) and any portion of such amount is
9 treated as a rollover under paragraph (2), any tax
10 imposed by chapter 1 on such portion shall not be
11 assessed, and if assessed shall be abated, and if col-
12 lected shall be credited or refunded as an overpay-
13 ment made on the due date for filing the return of
14 tax for such taxable year.

15 “(4) INTEREST.—Notwithstanding subsection
16 (d), interest shall be allowed under subsection (c) in
17 a case in which the Secretary makes a determination
18 described in subsection (d)(2)(A) with respect to a
19 levy upon an individual retirement plan.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to amounts paid under subsections
22 (b), (c), and (d)(2)(A) of section 6343 of the Internal Rev-
23 enue Code of 1986 after December 31, 2003.



1 **SEC. 314. SEVEN-DAY THRESHOLD ON TOLLING OF STAT-**
2 **UTE OF LIMITATIONS DURING TAX REVIEW.**

3 (a) IN GENERAL.—Section 7811(d)(1) (relating to
4 suspension of running of period of limitation) is amended
5 by inserting after “application,” the following: “but only
6 if the date of such decision is at least 7 days after the
7 date of the taxpayer’s application”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to applications filed after the date
10 of the enactment of this Act.

11 **SEC. 315. STUDY OF LIENS AND LEVIES.**

12 The Secretary of the Treasury, or the Secretary’s del-
13 egate, shall conduct a study of the practices of the Inter-
14 nal Revenue Service concerning liens and levies. The study
15 shall examine—

16 (1) the declining use of liens and levies by the
17 Internal Revenue Service, and

18 (2) the practicality of recording liens and
19 levying against property in cases in which the cost
20 of such actions exceeds the amount to be realized
21 from such property.

22 Not later than 1 year after the date of the enactment of
23 this Act, the Secretary shall submit such study to the
24 Committee on Ways and Means of the House of Rep-
25 resentatives and the Committee on Finance of the Senate.



1 **Subtitle C—Tax Administration**
2 **Reforms**

3 **SEC. 331. REVISIONS RELATING TO TERMINATION OF EM-**
4 **PLOYMENT OF INTERNAL REVENUE SERVICE**
5 **EMPLOYEES FOR MISCONDUCT.**

6 (a) IN GENERAL.—Subchapter A of chapter 80 (re-
7 lating to application of internal revenue laws) is amended
8 by inserting after section 7804 the following new section:

9 **“SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.**

10 “(a) DISCIPLINARY ACTIONS.—

11 “(1) IN GENERAL.—Subject to subsection (c),
12 the Commissioner shall take an action in accordance
13 with the guidelines established under paragraph (2)
14 against any employee of the Internal Revenue Serv-
15 ice if there is a final administrative or judicial deter-
16 mination that such employee committed any act or
17 omission described under subsection (b) in the per-
18 formance of the employee’s official duties or where
19 a nexus to the employee’s position exists.

20 “(2) GUIDELINES.—The Commissioner shall
21 issue guidelines for determining the appropriate level
22 of discipline, up to and including termination of em-
23 ployment, for committing any act or omission de-
24 scribed under subsection (b).



1 “(b) ACTS OR OMISSIONS.—The acts or omissions de-
2 scribed under this subsection are—

3 “(1) willful failure to obtain the required ap-
4 proval signatures on documents authorizing the sei-
5 zure of a taxpayer’s home, personal belongings, or
6 business assets;

7 “(2) willfully providing a false statement under
8 oath with respect to a material matter involving a
9 taxpayer or taxpayer representative;

10 “(3) with respect to a taxpayer or taxpayer rep-
11 resentative, the willful violation of—

12 “(A) any right under the Constitution of
13 the United States;

14 “(B) any civil right established under—

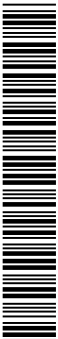
15 “(i) title VI or VII of the Civil Rights
16 Act of 1964;

17 “(ii) title IX of the Education Amend-
18 ments of 1972;

19 “(iii) the Age Discrimination in Em-
20 ployment Act of 1967;

21 “(iv) the Age Discrimination Act of
22 1975;

23 “(v) section 501 or 504 of the Reha-
24 bilitation Act of 1973; or



1 “(vi) title I of the Americans with
2 Disabilities Act of 1990; or

3 “(C) the Internal Revenue Service policy
4 on unauthorized inspection of returns or return
5 information;

6 “(4) willfully falsifying or destroying documents
7 to conceal mistakes made by any employee with re-
8 spect to a matter involving a taxpayer or taxpayer
9 representative;

10 “(5) assault or battery on a taxpayer or tax-
11 payer representative, but only if there is a criminal
12 conviction, or a final adverse judgment by a court in
13 a civil case, with respect to the assault or battery;

14 “(6) willful violations of this title, Department
15 of the Treasury regulations, or policies of the Inter-
16 nal Revenue Service (including the Internal Revenue
17 Manual) for the purpose of retaliating against, or
18 harassing, a taxpayer or taxpayer representative;

19 “(7) willful misuse of the provisions of section
20 6103 for the purpose of concealing information from
21 a congressional inquiry;

22 “(8) willful failure to file any return of tax re-
23 quired under this title on or before the date pre-
24 scribed therefor (including any extensions) when a



1 tax is due and owing, unless such failure is due to
2 reasonable cause and not due to willful neglect;

3 “(9) willful understatement of Federal tax li-
4 ability, unless such understatement is due to reason-
5 able cause and not due to willful neglect; and

6 “(10) threatening to audit a taxpayer, or to
7 take other action under this title, for the purpose of
8 extracting personal gain or benefit.

9 “(c) DETERMINATIONS OF COMMISSIONER.—

10 “(1) IN GENERAL.—The Commissioner may
11 take a personnel action other than a disciplinary ac-
12 tion provided for in the guidelines under subsection
13 (a)(2) for an act or omission described under sub-
14 section (b).

15 “(2) DISCRETION.—The exercise of authority
16 under paragraph (1) shall be at the sole discretion
17 of the Commissioner and may not be delegated to
18 any other officer. The Commissioner, in his sole dis-
19 cretion, may establish a procedure to determine if an
20 individual should be referred to the Commissioner
21 for a determination by the Commissioner under
22 paragraph (1).

23 “(3) NO APPEAL.—Notwithstanding any other
24 provision of law, any determination of the Commis-
25 sioner under this subsection may not be reviewed in



1 any administrative or judicial proceeding. A finding
2 that an act or omission described under subsection
3 (b) occurred may be reviewed.

4 “(d) DEFINITION.—For the purposes of the provi-
5 sions described in clauses (i), (ii), and (iv) of subsection
6 (b)(3)(B), references to a program or activity regarding
7 Federal financial assistance or an education program or
8 activity receiving Federal financial assistance shall include
9 any program or activity conducted by the Internal Rev-
10 enue Service for a taxpayer.

11 “(e) ANNUAL REPORT.—The Commissioner shall
12 submit to Congress annually a report on disciplinary ac-
13 tions under this section.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 for chapter 80 is amended by inserting after the item re-
16 lating to section 7804 the following new item:

“Sec. 7804A. Disciplinary actions for misconduct.”.

17 (c) REPEAL OF SUPERSEDED SECTION.—Section
18 1203 of the Internal Revenue Service Restructuring and
19 Reform Act of 1998 (Public Law 105–206; 112 Stat. 720)
20 is repealed.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act.



1 **SEC. 332. CONFIRMATION OF AUTHORITY OF TAX COURT**
2 **TO APPLY DOCTRINE OF EQUITABLE**
3 **RECOUPMENT.**

4 (a) CONFIRMATION OF AUTHORITY OF TAX COURT
5 TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—
6 Subsection (b) of section 6214 (relating to jurisdiction
7 over other years and quarters) is amended by adding at
8 the end the following new sentence: “Notwithstanding the
9 preceding sentence, the Tax Court may apply the doctrine
10 of equitable recoupment to the same extent that it is avail-
11 able in civil tax cases before the district courts of the
12 United States and the United States Court of Federal
13 Claims.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to any action or proceeding in the
16 Tax Court with respect to which a decision has not become
17 final (as determined under section 7481 of the Internal
18 Revenue Code of 1986) as of the date of the enactment
19 of this Act.

20 **SEC. 333. JURISDICTION OF TAX COURT OVER COLLECTION**
21 **DUE PROCESS CASES.**

22 (a) IN GENERAL.—Section 6330(d)(1) (relating to
23 judicial review of determination) is amended to read as
24 follows:

25 “(1) JUDICIAL REVIEW OF DETERMINATION.—
26 The person may, within 30 days of a determination



1 under this section, appeal such determination to the
2 Tax Court (and the Tax Court shall have jurisdic-
3 tion with respect to such matter).”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to judicial appeals filed after
6 the date of the enactment of this Act.

7 **SEC. 334. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS**
8 **IN COMPROMISE.**

9 (a) IN GENERAL.—Section 7122(b) (relating to
10 record) is amended by striking “Whenever a compromise”
11 and all that follows through “his delegate” and inserting
12 “If the Secretary determines that an opinion of the Gen-
13 eral Counsel for the Department of the Treasury, or the
14 Counsel’s delegate, is required with respect to a com-
15 promise, there shall be placed on file in the office of the
16 Secretary such opinion”.

17 (b) CONFORMING AMENDMENTS.—Section 7122(b) is
18 amended by striking the second and third sentences.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to offers-in-compromise submitted
21 or pending on or after the date of the enactment of this
22 Act.



1 **SEC. 335. ACCESS OF NATIONAL TAXPAYER ADVOCATE TO**
2 **INDEPENDENT LEGAL COUNSEL.**

3 Clause (i) of section 7803(c)(2)(D) (relating to per-
4 sonnel actions) is amended by striking “and” at the end
5 of subclause (I), by striking the period at the end of sub-
6 clause (II) and inserting “, and”, and by adding at the
7 end the following new subclause:

8 “(III) appoint a counsel in the
9 Office of the Taxpayer Advocate to re-
10 port solely to the National Taxpayer
11 Advocate.”.

12 **SEC. 336. PAYMENT OF MOTOR FUEL EXCISE TAX REFUNDS**
13 **BY DIRECT DEPOSIT.**

14 (a) IN GENERAL.—Subchapter II of chapter 33 of
15 title 31, United States Code, is amended by adding at the
16 end the following new section:

17 **“§ 3337. Payment of motor fuel excise tax refunds by**
18 **direct deposit**

19 “The Secretary of the Treasury shall make payments
20 under sections 6420, 6421, and 6427 of the Internal Rev-
21 enue Code of 1986 by electronic funds transfer (as defined
22 in section 3332(j)(1)) if the person who is entitled to the
23 payment—

24 “(1) elects to receive the payment by electronic
25 funds transfer; and



1 “(2) satisfies the requirements of section
2 3332(g) with respect to such payment at such time
3 and in such manner as the Secretary may require.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for subchapter II of chapter 33 of title 31, United States
6 Code, is amended by adding at the end the following new
7 item:

“3337. Payment of motor fuel excise tax refunds by direct deposit.”.

8 **SEC. 337. FAMILY BUSINESS TAX SIMPLIFICATION.**

9 (a) IN GENERAL.—Section 761 (defining terms for
10 purposes of partnerships) is amended by redesignating
11 subsection (f) as subsection (g) and by inserting after sub-
12 section (e) the following new subsection:

13 “(f) QUALIFIED JOINT VENTURE.—

14 “(1) IN GENERAL.—In the case of a qualified
15 joint venture conducted by a husband and wife who
16 file a joint return for the taxable year, for purposes
17 of this title—

18 “(A) such joint venture shall not be treat-
19 ed as a partnership,

20 “(B) all items of income, gain, loss, deduc-
21 tion, and credit shall be divided between the
22 spouses in accordance with their respective in-
23 terests in the venture, and

24 “(C) each spouse shall take into account
25 such spouse’s respective share of such items as



1 if they were attributable to a trade or business
2 conducted by such spouse as a sole proprietor.

3 “(2) QUALIFIED JOINT VENTURE.—For pur-
4 poses of paragraph (1), the term ‘qualified joint ven-
5 ture’ means any joint venture involving the conduct
6 of a trade or business if—

7 “(A) the only members of such joint ven-
8 ture are a husband and wife,

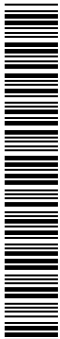
9 “(B) both spouses materially participate
10 (within the meaning of section 469(h) without
11 regard to paragraph (5) thereof) in such trade
12 or business, and

13 “(C) both spouses elect the application of
14 this subsection.”.

15 (b) NET EARNINGS FROM SELF-EMPLOYMENT.—

16 (1) Subsection (a) of section 1402 (defining net
17 earnings from self-employment) is amended by strik-
18 ing “and” at the end of paragraph (14), by striking
19 the period at the end of paragraph (15) and insert-
20 ing “; and”, and by inserting after paragraph (15)
21 the following new paragraph:

22 “(16) notwithstanding the preceding provisions
23 of this subsection, each spouse’s share of income or
24 loss from a qualified joint venture shall be taken
25 into account as provided in section 761(f) in deter-



1 mining net earnings from self-employment of such
2 spouse.”.

3 (2) Subsection (a) of section 211 of the Social
4 Security Act (defining net earnings from self-em-
5 ployment) is amended by striking “and” at the end
6 of paragraph (14), by striking the period at the end
7 of paragraph (15) and inserting “; and”, and by in-
8 serting after paragraph (15) the following new para-
9 graph:

10 “(16) Notwithstanding the preceding provisions
11 of this subsection, each spouse’s share of income or
12 loss from a qualified joint venture shall be taken
13 into account as provided in section 761(f) of the In-
14 ternal Revenue Code of 1986 in determining net
15 earnings from self-employment of such spouse.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 2002.

19 **SEC. 338. SUSPENSION OF TAX-EXEMPT STATUS OF TER-**
20 **RORIST ORGANIZATIONS.**

21 (a) IN GENERAL.—Section 501 (relating to exemp-
22 tion from tax on corporations, certain trusts, etc.) is
23 amended by redesignating subsection (p) as subsection (q)
24 and by inserting after subsection (o) the following new
25 subsection:



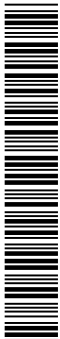
1 “(p) SUSPENSION OF TAX-EXEMPT STATUS OF TER-
2 RORIST ORGANIZATIONS.—

3 “(1) IN GENERAL.—The exemption from tax
4 under subsection (a) with respect to any organiza-
5 tion described in paragraph (2), and the eligibility of
6 any organization described in paragraph (2) to apply
7 for recognition of exemption under subsection (a),
8 shall be suspended during the period described in
9 paragraph (3).

10 “(2) TERRORIST ORGANIZATIONS.—An organi-
11 zation is described in this paragraph if such organi-
12 zation is designated or otherwise individually
13 identified—

14 “(A) under section 212(a)(3)(B)(vi)(II) or
15 219 of the Immigration and Nationality Act as
16 a terrorist organization or foreign terrorist or-
17 ganization,

18 “(B) in or pursuant to an Executive order
19 which is related to terrorism and issued under
20 the authority of the International Emergency
21 Economic Powers Act or section 5 of the
22 United Nations Participation Act of 1945 for
23 the purpose of imposing on such organization
24 an economic or other sanction, or



1 “(C) in or pursuant to an Executive order
2 issued under the authority of any Federal law
3 if—

4 “(i) the organization is designated or
5 otherwise individually identified in or pur-
6 suant to such Executive order as sup-
7 porting or engaging in terrorist activity (as
8 defined in section 212(a)(3)(B) of the Im-
9 migration and Nationality Act) or sup-
10 porting terrorism (as defined in section
11 140(d)(2) of the Foreign Relations Author-
12 ization Act, Fiscal Years 1988 and 1989);
13 and

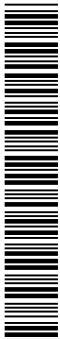
14 “(ii) such Executive order refers to
15 this subsection.

16 “(3) PERIOD OF SUSPENSION.—With respect to
17 any organization described in paragraph (2), the pe-
18 riod of suspension—

19 “(A) begins on the later of—

20 “(i) the date of the first publication of
21 a designation or identification described in
22 paragraph (2) with respect to such organi-
23 zation, or

24 “(ii) the date of the enactment of this
25 subsection, and



1 “(B) ends on the first date that all des-
2 ignations and identifications described in para-
3 graph (2) with respect to such organization are
4 rescinded pursuant to the law or Executive
5 order under which such designation or identi-
6 fication was made.

7 “(4) DENIAL OF DEDUCTION.—No deduction
8 shall be allowed under section 170, 545(b)(2),
9 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for
10 any contribution to an organization described in
11 paragraph (2) during the period described in para-
12 graph (3).

13 “(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL
14 CHALLENGE OF SUSPENSION OR DENIAL OF DEDUC-
15 TION.—Notwithstanding section 7428 or any other
16 provision of law, no organization or other person
17 may challenge a suspension under paragraph (1), a
18 designation or identification described in paragraph
19 (2), the period of suspension described in paragraph
20 (3), or a denial of a deduction under paragraph (4)
21 in any administrative or judicial proceeding relating
22 to the Federal tax liability of such organization or
23 other person.

24 “(6) ERRONEOUS DESIGNATION.—

25 “(A) IN GENERAL.—If—



1 “(i) the tax exemption of any organi-
2 zation described in paragraph (2) is sus-
3 pended under paragraph (1),

4 “(ii) each designation and identifica-
5 tion described in paragraph (2) which has
6 been made with respect to such organiza-
7 tion is determined to be erroneous pursu-
8 ant to the law or Executive order under
9 which such designation or identification
10 was made, and

11 “(iii) the erroneous designations and
12 identifications result in an overpayment of
13 income tax for any taxable year by such
14 organization,

15 credit or refund (with interest) with respect to
16 such overpayment shall be made.

17 “(B) WAIVER OF LIMITATIONS.—If the
18 credit or refund of any overpayment of tax de-
19 scribed in subparagraph (A)(iii) is prevented at
20 any time by the operation of any law or rule of
21 law (including res judicata), such credit or re-
22 fund may nevertheless be allowed or made if the
23 claim therefor is filed before the close of the 1-
24 year period beginning on the date of the last



1 determination described in subparagraph
2 (A)(ii).

3 “(7) NOTICE OF SUSPENSIONS.—If the tax ex-
4 emption of any organization is suspended under this
5 subsection, the Internal Revenue Service shall up-
6 date the listings of tax-exempt organizations and
7 shall publish appropriate notice to taxpayers of such
8 suspension and of the fact that contributions to such
9 organization are not deductible during the period of
10 such suspension.”.

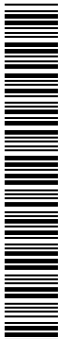
11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to designations made before, on,
13 or after the date of the enactment of this Act.

14 **SEC. 339. TAX REFUND ANTICIPATION LOANS.**

15 The Secretary of the Treasury may not provide any
16 direct deposit indicator with respect to a taxpayer to any
17 tax return preparer, financial institution, or other person
18 that charges taxpayers interest rates (including fees) on
19 refund anticipation loans in excess of the consumer loan
20 usury rate limit of the State in which the taxpayer is domi-
21 ciled.

22 **SEC. 340. FAIRNESS IN TAX AUDIT COVERAGE.**

23 (a) MANDATORY AUDITS OF HIGH RISK TAX-
24 PAYERS.—The Secretary of the Treasury shall conduct au-



1 dits of all taxpayers whom the Secretary determines are
2 likely to have—

3 (1) an unpaid Federal income tax liability of
4 more than \$1,000,000, or

5 (2) to have unreported income or structured
6 transactions which are considered by the Secretary
7 to be high risk.

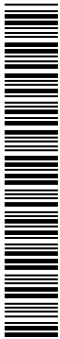
8 (b) RATE OF AUDITS.—The Secretary of the Treas-
9 ury shall conduct audits of high income taxpayers likely
10 to owe taxes at a rate which is not less than the rate at
11 which the Secretary conducts audits of low income tax-
12 payers likely to owe taxes.

13 **Subtitle D—Confidentiality and** 14 **Disclosure**

15 **SEC. 341. COLLECTION ACTIVITIES WITH RESPECT TO** 16 **JOINT RETURN DISCLOSABLE TO EITHER** 17 **SPOUSE BASED ON ORAL REQUEST.**

18 (a) IN GENERAL.—Paragraph (8) of section 6103(e)
19 (relating to disclosure of collection activities with respect
20 to joint return) is amended by striking “in writing” the
21 first place it appears.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to requests made after the date
24 of the enactment of this Act.



1 **SEC. 342. TAXPAYER REPRESENTATIVES NOT SUBJECT TO**
2 **EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.**
3

4 (a) IN GENERAL.—Paragraph (1) of section 6103(h)
5 (relating to disclosure to certain Federal officers and em-
6 ployees for purposes of tax administration, etc.) is
7 amended—

8 (1) by striking “Returns” and inserting the fol-
9 lowing:

10 “(A) IN GENERAL.—Returns”, and

11 (2) by adding at the end the following new sub-
12 paragraph:

13 “(B) TAXPAYER REPRESENTATIVES.—Not-
14 withstanding subparagraph (A), the return of
15 the representative of a taxpayer whose return is
16 being examined by an officer or employee of the
17 Department of the Treasury shall not be open
18 to inspection by such officer or employee on the
19 sole basis of the representative’s relationship to
20 the taxpayer unless a supervisor of such officer
21 or employee has approved the inspection of the
22 return of such representative on a basis other
23 than by reason of such relationship.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall take effect on the date which is 180 days
26 after the date of the enactment of this Act.



1 **SEC. 343. DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE**
2 **TAX PROCEEDINGS OF RETURN AND RETURN**
3 **INFORMATION OF PERSONS WHO ARE NOT**
4 **PARTY TO SUCH PROCEEDINGS.**

5 (a) IN GENERAL.—Paragraph (4) of section 6103(h)
6 (relating to disclosure to certain Federal officers and em-
7 ployees for purposes of tax administration, etc.) is amend-
8 ed by adding at the end the following new subparagraph:

9 “(B) DISCLOSURE IN JUDICIAL OR ADMIN-
10 ISTRATIVE TAX PROCEEDINGS OF RETURN AND
11 RETURN INFORMATION OF PERSONS NOT PARTY
12 TO SUCH PROCEEDINGS.—

13 “(i) NOTICE.—Return or return infor-
14 mation of any person who is not a party to
15 a judicial or administrative proceeding de-
16 scribed in this paragraph shall not be dis-
17 closed under clause (ii) or (iii) of subpara-
18 graph (A) until after the Secretary makes
19 a reasonable effort to give notice to such
20 person and an opportunity for such person
21 to request the deletion of matter from such
22 return or return information, including any
23 of the items referred to in paragraphs (1)
24 through (7) of section 6110(c). Such notice
25 shall include a statement of the issue or
26 issues the resolution of which is the reason



1 such return or return information is
2 sought. In the case of S corporations, part-
3 nerships, estates, and trusts, such notice
4 shall be made at the entity level.

5 “(ii) DISCLOSURE LIMITED TO PERTI-
6 NENT PORTION.—The only portion of a re-
7 turn or return information described in
8 clause (i) which may be disclosed under
9 subparagraph (A) is that portion of such
10 return or return information that directly
11 relates to the resolution of an issue in such
12 proceeding.

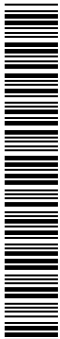
13 “(iii) EXCEPTIONS.—Clause (i) shall
14 not apply—

15 “(I) to any civil action under sec-
16 tion 7407, 7408, or 7409,

17 “(II) to any ex parte proceeding
18 for obtaining a search warrant, order
19 for entry on premises or safe deposit
20 boxes, or similar ex parte proceeding,

21 “(III) to disclosure of third party
22 return information by indictment or
23 criminal information, or

24 “(IV) if the Attorney General or
25 the Attorney General’s delegate deter-



1 mines that the application of such
2 clause would seriously impair a crimi-
3 nal tax investigation or proceeding.”.

4 (b) CONFORMING AMENDMENTS.—Paragraph (4) of
5 section 6103(h) is amended by—

6 (1) by striking “PROCEEDINGS.—A return” and
7 inserting “PROCEEDINGS.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), a return”;

10 (2) by redesignating subparagraphs (A), (B),
11 (C), and (D) as clauses (i), (ii), (iii), and (iv), re-
12 spectively; and

13 (3) in the matter following clause (iv) (as so re-
14 designated), by striking “subparagraph (A), (B), or
15 (C)” and inserting “clause (i), (ii), or (iii)” and by
16 moving such matter 2 ems to the right.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to proceedings commenced after
19 the date of the enactment of this Act.

20 **SEC. 344. PROHIBITION OF DISCLOSURE OF TAXPAYER**
21 **IDENTIFICATION INFORMATION WITH RE-**
22 **SPECT TO DISCLOSURE OF ACCEPTED OF-**
23 **FERS-IN-COMPROMISE.**

24 (a) GENERAL.—Paragraph (1) of section 6103(k)
25 (relating to disclosure of certain returns and return infor-



1 mation for tax administrative purposes) is amended by in-
2 serting “(other than the taxpayer’s address and TIN)”
3 after “Return information”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to disclosures made after the date
6 of the enactment of this Act.

7 **SEC. 345. COMPLIANCE BY CONTRACTORS WITH CONFIDEN-**
8 **TIALITY SAFEGUARDS.**

9 (a) IN GENERAL.—Section 6103(p) (relating to State
10 law requirements) is amended by adding at the end the
11 following new paragraph:

12 “(9) DISCLOSURE TO CONTRACTORS AND
13 OTHER AGENTS.—Notwithstanding any other provi-
14 sion of this section, no return or return information
15 shall be disclosed to any contractor or other agent
16 of a Federal, State, or local agency unless such
17 agency, to the satisfaction of the Secretary—

18 “(A) has requirements in effect which re-
19 quire each such contractor or other agent which
20 would have access to returns or return informa-
21 tion to provide safeguards (within the meaning
22 of paragraph (4)) to protect the confidentiality
23 of such returns or return information,

24 “(B) agrees to conduct an annual, on-site
25 review (mid-point review in the case of con-



1 tracts of less than 1 year in duration) of each
2 such contractor or other agent to determine
3 compliance with such requirements,

4 “(C) submits the findings of the most re-
5 cent review conducted under subparagraph (B)
6 to the Secretary as part of the report required
7 by paragraph (4)(E), and

8 “(D) certifies to the Secretary for the most
9 recent annual period that each such contractor
10 or other agent is in compliance with all such re-
11 quirements.

12 The certification required by subparagraph (D) shall
13 include the name and address of each contractor and
14 other agent, a description of the contract of the con-
15 tractor or other agent with the agency, and the du-
16 ration of such contract.”.

17 (b) CONFORMING AMENDMENT.—Subparagraph (B)
18 of section 6103(p)(8) is amended by inserting “or para-
19 graph (9)” after “subparagraph (A)”.

20 (c) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by
22 this section shall apply to disclosures made after De-
23 cember 31, 2003.

24 (2) CERTIFICATIONS.—The first certification
25 under section 6103(p)(9)(D) of the Internal Revenue



1 Code of 1986, as added by subsection (a), shall be
2 made with respect to calendar year 2004.

3 **SEC. 346. HIGHER STANDARDS FOR REQUESTS FOR AND**
4 **CONSENTS TO DISCLOSURE.**

5 (a) IN GENERAL.—Subsection (c) of section 6103
6 (relating to disclosure of returns and return information
7 to designee of taxpayer) is amended by adding at the end
8 the following new paragraphs:

9 “(2) REQUIREMENTS FOR VALID REQUESTS
10 AND CONSENTS.—A request for or consent to disclo-
11 sure under paragraph (1) shall only be valid for pur-
12 poses of this section, sections 7213, 7213A, and
13 7431 if—

14 “(A) at the time of execution, such request
15 or consent designates a recipient of such disclo-
16 sure and is dated, and

17 “(B) at the time such request or consent
18 is submitted to the Secretary, the submitter of
19 such request or consent certifies, under penalty
20 of perjury, that such request or consent com-
21 plied with subparagraph (A).

22 “(3) RESTRICTIONS ON PERSONS OBTAINING
23 INFORMATION.—Any person shall, as a condition for
24 receiving return or return information under para-
25 graph (1)—



1 “(A) ensure that such return and return
2 information is kept confidential,

3 “(B) use such return and return informa-
4 tion only for the purpose for which it was re-
5 quested, and

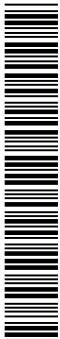
6 “(C) not disclose such return and return
7 information except to accomplish the purpose
8 for which it was requested, unless a separate
9 consent from the taxpayer is obtained.

10 “(4) REQUIREMENTS FOR FORM PRESCRIBED
11 BY SECRETARY.—For purposes of this subsection,
12 the Secretary shall prescribe a form for requests and
13 consents which shall—

14 “(A) contain a warning, prominently dis-
15 played, informing the taxpayer that the form
16 should not be signed unless it is completed,

17 “(B) state that if the taxpayer believes
18 there is an attempt to coerce him to sign an in-
19 complete or blank form, the taxpayer should re-
20 port the matter to the Treasury Inspector Gen-
21 eral for Tax Administration, and

22 “(C) contain the address and telephone
23 number of the Treasury Inspector General for
24 Tax Administration.”.



1 (b) REPORT.—Not later than 18 months after the
2 date of the enactment of this Act, the Treasury Inspector
3 General for Tax Administration shall submit a report to
4 the Congress on compliance with the designation and cer-
5 tification requirements applicable to requests for or con-
6 sent to disclosure of returns and return information under
7 section 6103(c) of the Internal Revenue Code of 1986, as
8 amended by subsection (a). Such report shall—

9 (1) evaluate (on the basis of random sampling)
10 whether—

11 (A) the amendment made by subsection (a)
12 is achieving the purposes of this section;

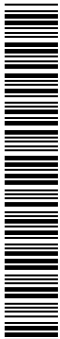
13 (B) requesters and submitters for such dis-
14 closure are continuing to evade the purposes of
15 this section and, if so, how; and

16 (C) the sanctions for violations of such re-
17 quirements are adequate; and

18 (2) include such recommendations that the
19 Treasury Inspector General for Tax Administration
20 considers necessary or appropriate to better achieve
21 the purposes of this section.

22 (c) CONFORMING AMENDMENTS.—

23 (1) Section 6103(c) is amended by striking
24 “TAXPAYER.—The Secretary” and inserting “TAX-
25 PAYER.—



1 “(1) IN GENERAL.—The Secretary”.

2 (2) Section 7213(a)(1) is amended by striking
3 “section 6103(n)” and inserting “subsections (c)
4 and (n) of section 6103”.

5 (3) Section 7213A(a)(1)(B) is amended by
6 striking “subsection (l)(18) or (n) of section 6103”
7 and inserting “subsection (c), (l)(18), or (n) of sec-
8 tion 6103”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to requests and consents made
11 after 3 months after the date of the enactment of this
12 Act.

13 **SEC. 347. NOTICE TO TAXPAYER CONCERNING ADMINIS-**
14 **TRATIVE DETERMINATION OF BROWSING; AN-**
15 **NUAL REPORT.**

16 (a) NOTICE TO TAXPAYER.—Subsection (e) of section
17 7431 (relating to notification of unlawful inspection and
18 disclosure) is amended by adding at the end the following:
19 “The Secretary shall also notify such taxpayer if the
20 Treasury Inspector General for Tax Administration sub-
21 stantiates that such taxpayer’s return or return informa-
22 tion was inspected or disclosed in violation of any of the
23 provisions specified in paragraph (1), (2), or (3).”.



1 (b) REPORTS.—Subsection (p) of section 6103 (relat-
2 ing to procedure and recordkeeping), is amended by add-
3 ing at the end the following new paragraph:

4 “(10) REPORT ON UNAUTHORIZED DISCLOSURE
5 AND INSPECTION.—As part of the report required by
6 paragraph (3)(C) for each calendar year, the Sec-
7 retary shall furnish information regarding the unau-
8 thorized disclosure and inspection of returns and re-
9 turn information, including the number, status, and
10 results of—

11 “(A) administrative investigations,

12 “(B) civil lawsuits brought under section
13 7431 (including the amounts for which such
14 lawsuits were settled and the amounts of dam-
15 ages awarded), and

16 “(C) criminal prosecutions.”.

17 (c) EFFECTIVE DATE.—

18 (1) NOTICE.—The amendment made by sub-
19 section (a) shall apply to determinations made after
20 the date of the enactment of this Act.

21 (2) REPORTS.—The amendment made by sub-
22 section (b) shall apply to calendar years ending after
23 the date of the enactment of this Act.



1 **SEC. 348. EXPANDED DISCLOSURE IN EMERGENCY CIR-**
2 **CUMSTANCES.**

3 (a) IN GENERAL.—Section 6103(i)(3)(B) (relating to
4 danger of death or physical injury) is amended by striking
5 “or State” and inserting “, State, or local”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall take effect on the date of the enactment
8 of this Act.

9 **SEC. 349. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX**
10 **REFUND PURPOSES.**

11 (a) IN GENERAL.—Paragraph (1) of section 6103(m)
12 (relating to disclosure of taxpayer identity information) is
13 amended by striking “and other media” and by inserting
14 “, other media, and through any other means of mass
15 communication,”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on the date of the enactment
18 of this Act.

19 **SEC. 350. DISCLOSURE TO STATE OFFICIALS OF PROPOSED**
20 **ACTIONS RELATED TO SECTION 501(c)(3) OR-**
21 **GANIZATIONS.**

22 (a) IN GENERAL.—Subsection (c) of section 6104 is
23 amended by striking paragraph (2) and inserting the fol-
24 lowing new paragraphs:

25 “(2) DISCLOSURE OF PROPOSED ACTIONS.—



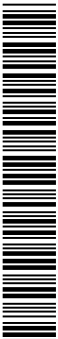
1 “(A) SPECIFIC NOTIFICATIONS.—In the
2 case of an organization to which paragraph (1)
3 applies, the Secretary may disclose to the ap-
4 propriate State officer—

5 “(i) a notice of proposed refusal to
6 recognize such organization as an organi-
7 zation described in section 501(c)(3) or a
8 notice of proposed revocation of such orga-
9 nization’s recognition as an organization
10 exempt from taxation,

11 “(ii) the issuance of a letter of pro-
12 posed deficiency of tax imposed under sec-
13 tion 507 or chapter 41 or 42, and

14 “(iii) the names, addresses, and tax-
15 payer identification numbers of organiza-
16 tions that have applied for recognition as
17 organizations described in section
18 501(c)(3).

19 “(B) ADDITIONAL DISCLOSURES.—Returns
20 and return information of organizations with
21 respect to which information is disclosed under
22 subparagraph (A) may be made available for in-
23 spection by or disclosed to an appropriate State
24 officer.



1 “(C) PROCEDURES FOR DISCLOSURE.—In-
2 formation may be inspected or disclosed under
3 subparagraph (A) or (B) only—

4 “(i) upon written request by an ap-
5 propriate State officer, and

6 “(ii) for the purpose of, and only to
7 the extent necessary in, the administration
8 of State laws regulating such organiza-
9 tions.

10 Such information may only be inspected by or
11 disclosed to a person other than the appropriate
12 State officer if such person is an officer or em-
13 ployee of the State and is designated by the ap-
14 propriate State officer to receive the returns or
15 return information under this paragraph on be-
16 half of the appropriate State officer.

17 “(D) DISCLOSURES OTHER THAN BY RE-
18 QUEST.—The Secretary may make available for
19 inspection or disclose returns and return infor-
20 mation of an organization to which paragraph
21 (1) applies to an appropriate State officer of
22 any State if the Secretary determines that such
23 inspection or disclosure may facilitate the reso-
24 lution of State or Federal issues relating to the
25 tax-exempt status of such organization.



1 “(3) USE IN ADMINISTRATIVE AND JUDICIAL
2 CIVIL PROCEEDINGS.—Returns and return informa-
3 tion disclosed pursuant to this subsection may be
4 disclosed in administrative and judicial civil pro-
5 ceedings pertaining to the enforcement of State laws
6 regulating such organizations in a manner pre-
7 scribed by the Secretary similar to that for tax ad-
8 ministration proceedings under section 6103(h)(4).

9 “(4) NO DISCLOSURE IF IMPAIRMENT.—Re-
10 turns and return information shall not be disclosed
11 under this subsection, or in any proceeding described
12 in paragraph (3), to the extent that the Secretary
13 determines that such disclosure would seriously im-
14 pair Federal tax administration.

15 “(5) DEFINITIONS.—For purposes of this
16 subsection—

17 “(A) RETURN AND RETURN INFORMA-
18 TION.—The terms ‘return’ and ‘return informa-
19 tion’ have the respective meanings given to such
20 terms by section 6103(b).

21 “(B) APPROPRIATE STATE OFFICER.—The
22 term ‘appropriate State officer’ means—

23 “(i) the State attorney general, or



1 “(ii) any other State official charged
2 with overseeing organizations of the type
3 described in section 501(c)(3).”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Subparagraph (A) of section 6103(p)(3) is
6 amended by inserting “and section 6104(c)” after
7 “section” in the first sentence.

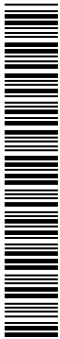
8 (2) Paragraph (4) of section 6103(p) is
9 amended—

10 (A) in the matter preceding subparagraph
11 (A), by inserting “, or any appropriate State of-
12 ficer (as defined in section 6104(c)),” before
13 “or any other person”,

14 (B) in subparagraph (F)(i), by inserting
15 “or any appropriate State officer (as defined in
16 section 6104(c)),” before “or any other per-
17 son”, and

18 (C) in the matter following subparagraph
19 (F), by inserting “, an appropriate State officer
20 (as defined in section 6104(c)),” after “includ-
21 ing an agency” each place it appears.

22 (3) Paragraph (2) of section 7213(a) is amend-
23 ed by inserting “or under section 6104(c)” after
24 “6103”.



1 (4) Paragraph (2) of section 7213A(a) is
2 amended by inserting “or 6104(c)” after “6103”.

3 (5) Paragraph (2) of section 7431(a) is amend-
4 ed by inserting “(including any disclosure in viola-
5 tion of section 6104(c))” after “6103”.

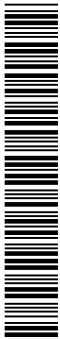
6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on the date of the enactment
8 of this Act but shall not apply to requests made before
9 such date.

10 **SEC. 351. CONFIDENTIALITY OF TAXPAYER COMMUNICA-**
11 **TIONS WITH THE OFFICE OF THE TAXPAYER**
12 **ADVOCATE.**

13 (a) IN GENERAL.—Subsection (c) of section 7803 is
14 amended by adding at the end the following new para-
15 graph:

16 “(5) CONFIDENTIALITY OF TAXPAYER INFOR-
17 MATION.—

18 “(A) IN GENERAL.—To the extent author-
19 ized by the National Taxpayer Advocate or pur-
20 suant to guidance issued under subparagraph
21 (B), any officer or employee of the Office of the
22 Taxpayer Advocate may withhold from the In-
23 ternal Revenue Service and the Department of
24 Justice any information provided by, or regard-
25 ing contact with, any taxpayer.

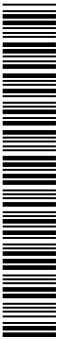


1 “(B) ISSUANCE OF GUIDANCE.—In con-
2 sultation with the Chief Counsel for the Inter-
3 nal Revenue Service and subject to the approval
4 of the Commissioner of Internal Revenue, the
5 National Taxpayer Advocate may issue guid-
6 ance regarding the circumstances (including
7 with respect to litigation) under which, and the
8 persons to whom, employees of the Office of the
9 Taxpayer Advocate shall not disclose informa-
10 tion obtained from a taxpayer. To the extent to
11 which any provision of the Internal Revenue
12 Manual would require greater disclosure by em-
13 ployees of the Office of the Taxpayer Advocate
14 than the disclosure required under such guid-
15 ance, such provision shall not apply.

16 “(C) EMPLOYEE PROTECTION.—Section
17 7214(a)(8) shall not apply to any failure to re-
18 port knowledge or information if—

19 “(i) such failure to report is author-
20 ized under subparagraph (A), and

21 “(ii) such knowledge or information is
22 not of fraud committed by a person
23 against the United States under any rev-
24 enue law.”.



1 (b) CONFORMING AMENDMENT.—Subparagraph (A)
2 of section 7803(c)(4) is amended by inserting “and” at
3 the end of clause (ii), by striking “; and” at the end of
4 clause (iii) and inserting a period, and by striking clause
5 (iv).

6 **Subtitle E—Miscellaneous**

7 **SEC. 361. CLARIFICATION OF DEFINITION OF CHURCH TAX**
8 **INQUIRY.**

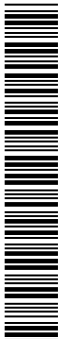
9 Subsection (i) of section 7611 (relating to section not
10 to apply to criminal investigations, etc.) is amended by
11 striking “or” at the end of paragraph (4), by striking the
12 period at the end of paragraph (5) and inserting “, or”,
13 and by inserting after paragraph (5) the following:

14 “(6) information provided by the Secretary re-
15 lated to the standards for exemption from tax under
16 this title and the requirements under this title relat-
17 ing to unrelated business taxable income.”.

18 **SEC. 362. EXPANSION OF DECLARATORY JUDGMENT REM-**
19 **EDY TO TAX-EXEMPT ORGANIZATIONS.**

20 (a) IN GENERAL.—Paragraph (1) of section 7428(a)
21 (relating to creation of remedy) is amended—

22 (1) in subparagraph (B) by inserting after
23 “509(a))” the following: “or as a private operating
24 foundation (as defined in section 4942(j)(3))”; and



1 (2) by amending subparagraph (C) to read as
2 follows:

3 “(C) with respect to the initial qualifica-
4 tion or continuing qualification of an organiza-
5 tion as an organization described in subsection
6 (c) (other than paragraph (3)) or (d) of section
7 501 which is exempt from tax under section
8 501(a), or”.

9 (b) COURT JURISDICTION.—Subsection (a) of section
10 7428 is amended in the material following paragraph (2)
11 by striking “United States Tax Court, the United States
12 Claims Court, or the district court of the United States
13 for the District of Columbia” and inserting the following:
14 “United States Tax Court (in the case of any such deter-
15 mination or failure) or the United States Claims Court
16 or the district court of the United States for the District
17 of Columbia (in the case of a determination or failure with
18 respect to an issue referred to in subparagraph (A) or (B)
19 of paragraph (1)),”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to pleadings filed with respect to
22 determinations (or requests for determinations) made
23 after the date of the enactment of this Act.



1 **SEC. 363. EMPLOYEE MISCONDUCT REPORT TO INCLUDE**
2 **SUMMARY OF COMPLAINTS BY CATEGORY.**

3 (a) IN GENERAL.—Clause (ii) of section
4 7803(d)(2)(A) is amended by inserting before the semi-
5 colon at the end the following: “, including a summary
6 (by category) of the 10 most common complaints made
7 and the number of such common complaints”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply with respect to reporting periods
10 ending after the date of the enactment of this Act.

11 **SEC. 364. ANNUAL REPORT ON AWARDS OF COSTS AND**
12 **CERTAIN FEES IN ADMINISTRATIVE AND**
13 **COURT PROCEEDINGS.**

14 Not later than 3 months after the close of each Fed-
15 eral fiscal year after fiscal year 2003, the Treasury In-
16 specter General for Tax Administration shall submit a re-
17 port to Congress which specifies for such year—

18 (1) the number of payments made by the
19 United States pursuant to section 7430 of the Inter-
20 nal Revenue Code of 1986 (relating to awarding of
21 costs and certain fees);

22 (2) the amount of each such payment;

23 (3) an analysis of any administrative issue giv-
24 ing rise to such payments; and

25 (4) changes (if any) which will be implemented
26 as a result of such analysis and other changes (if



1 any) recommended by the Treasury Inspector Gen-
2 eral for Tax Administration as a result of such anal-
3 ysis.

4 **SEC. 365. ANNUAL REPORT ON ABATEMENT OF PENALTIES.**

5 Not later than 6 months after the close of each Fed-
6 eral fiscal year after fiscal year 2003, the Treasury In-
7 spector General for Tax Administration shall submit a re-
8 port to Congress on abatements of penalties under the In-
9 ternal Revenue Code of 1986 during such year, including
10 information on the reasons and criteria for such abate-
11 ments.

12 **SEC. 366. BETTER MEANS OF COMMUNICATING WITH TAX-**
13 **PAYERS.**

14 Not later than 18 months after the date of the enact-
15 ment of this Act, the Treasury Inspector General for Tax
16 Administration shall submit a report to Congress evalu-
17 ating whether technological advances, such as e-mail and
18 facsimile transmission, permit the use of alternative
19 means for the Internal Revenue Service to communicate
20 with taxpayers.

21 **SEC. 367. EXPLANATION OF STATUTE OF LIMITATIONS AND**
22 **CONSEQUENCES OF FAILURE TO FILE.**

23 The Secretary of the Treasury or the Secretary's del-
24 egate shall, as soon as practicable but not later than 180
25 days after the date of the enactment of this Act, revise



1 the statement required by section 6227 of the Omnibus
2 Taxpayer Bill of Rights (Internal Revenue Service Publi-
3 cation No. 1), and any instructions booklet accompanying
4 a general income tax return form for taxable years begin-
5 ning after 2002 (including forms 1040, 1040A, 1040EZ,
6 and any similar or successor forms relating thereto), to
7 provide for an explanation of—

8 (1) the limitations imposed by section 6511 of
9 the Internal Revenue Code of 1986 on credits and
10 refunds; and

11 (2) the consequences under such section 6511
12 of the failure to file a return of tax.

13 **SEC. 368. AMENDMENT TO TREASURY AUCTION REFORMS.**

14 (a) IN GENERAL.—Clause (i) of section 202(c)(4)(B)
15 of the Government Securities Act Amendments of 1993
16 (31 U.S.C. 3121 note) is amended by inserting before the
17 semicolon “(or, if earlier, at the time the Secretary re-
18 leases the minutes of the meeting in accordance with para-
19 graph (2))”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to meetings held after the date
22 of the enactment of this Act.



1 **SEC. 369. ENROLLED AGENTS.**

2 (a) IN GENERAL.—Chapter 77 (relating to miscella-
3 neous provisions) is amended by adding at the end the
4 following new section:

5 **“SEC. 7528. ENROLLED AGENTS.**

6 “(a) IN GENERAL.—The Secretary may prescribe
7 such regulations as may be necessary to regulate the con-
8 duct of enrolled agents in regards to their practice before
9 the Internal Revenue Service.

10 “(b) USE OF CREDENTIALS.—Any enrolled agents
11 properly licensed to practice as required under rules pro-
12 mulgated under section (a) herein shall be allowed to use
13 the credentials or designation as ‘enrolled agent’, ‘EA’, or
14 ‘E.A.’.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for chapter 77 is amended by adding at the end the fol-
17 lowing new item:

 “Sec. 7528. Enrolled agents.”.

18 (c) PRIOR REGULATIONS.—Nothing in the amend-
19 ments made by this section shall be construed to have any
20 effect on part 10 of title 31, Code of Federal Regulations,
21 or any other Federal rule or regulation issued before the
22 date of the enactment of this Act.

23 **SEC. 370. FINANCIAL MANAGEMENT SERVICE FEES.**

24 Notwithstanding any other provision of law, the Fi-
25 nancial Management Service may charge the Internal Rev-



1 enue Service, and the Internal Revenue Service may pay
2 the Financial Management Service, a fee sufficient to
3 cover the full cost of implementing a continuous levy pro-
4 gram under subsection (h) of section 6331 of the Internal
5 Revenue Code of 1986. Any such fee shall be based on
6 actual levies made and shall be collected by the Financial
7 Management Service by the retention of a portion of
8 amounts collected by levy pursuant to that subsection.
9 Amounts received by the Financial Management Service
10 as fees under that subsection shall be deposited into the
11 account of the Department of the Treasury under section
12 3711(g)(7) of title 31, United States Code, and shall be
13 collected and accounted for in accordance with the provi-
14 sions of that section. The amount credited against the tax-
15 payer's liability on account of the continuous levy shall
16 be the amount levied, without reduction for the amount
17 paid to the Financial Management Service as a fee.

18 **SEC. 371. EXTENSION OF INTERNAL REVENUE SERVICE**

19 **USER FEES.**

20 (a) IN GENERAL.—Chapter 77 (relating to miscella-
21 neous provisions) is amended by adding at the end the
22 following new section:

23 **“SEC. 7529. INTERNAL REVENUE SERVICE USER FEES.**

24 “(a) GENERAL RULE.—The Secretary shall establish
25 a program requiring the payment of user fees for—



1 “(1) requests to the Internal Revenue Service
2 for ruling letters, opinion letters, and determination
3 letters, and

4 “(2) other similar requests.

5 “(b) PROGRAM CRITERIA.—

6 “(1) IN GENERAL.—The fees charged under the
7 program required by subsection (a)—

8 “(A) shall vary according to categories (or
9 subcategories) established by the Secretary,

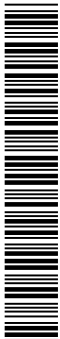
10 “(B) shall be determined after taking into
11 account the average time for (and difficulty of)
12 complying with requests in each category (and
13 subcategory), and

14 “(C) shall be payable in advance.

15 “(2) EXEMPTIONS, ETC.—

16 “(A) IN GENERAL.—The Secretary shall
17 provide for such exemptions (and reduced fees)
18 under such program as the Secretary deter-
19 mines to be appropriate.

20 “(B) EXEMPTION FOR CERTAIN REQUESTS
21 REGARDING PENSION PLANS.—The Secretary
22 shall not require payment of user fees under
23 such program for requests for determination
24 letters with respect to the qualified status of a
25 pension benefit plan maintained solely by 1 or



1 more eligible employers or any trust which is
2 part of the plan. The preceding sentence shall
3 not apply to any request—

4 “(i) made after the later of—

5 “(I) the fifth plan year the pen-
6 sion benefit plan is in existence, or

7 “(II) the end of any remedial
8 amendment period with respect to the
9 plan beginning within the first 5 plan
10 years, or

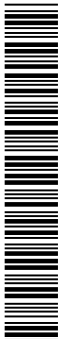
11 “(ii) made by the sponsor of any pro-
12 totype or similar plan which the sponsor
13 intends to market to participating employ-
14 ers.

15 “(C) DEFINITIONS AND SPECIAL RULES.—

16 For purposes of subparagraph (B)—

17 “(i) PENSION BENEFIT PLAN.—The
18 term ‘pension benefit plan’ means a pen-
19 sion, profit-sharing, stock bonus, annuity,
20 or employee stock ownership plan.

21 “(ii) ELIGIBLE EMPLOYER.—The
22 term ‘eligible employer’ means an eligible
23 employer (as defined in section
24 408(p)(2)(C)(i)(I)) which has at least 1
25 employee who is not a highly compensated



1 employee (as defined in section 414(q))
2 and is participating in the plan. The deter-
3 mination of whether an employer is an eli-
4 gible employer under subparagraph (B)
5 shall be made as of the date of the request
6 described in such subparagraph.

7 “(iii) DETERMINATION OF AVERAGE
8 FEES CHARGED.—For purposes of any de-
9 termination of average fees charged, any
10 request to which subparagraph (B) applies
11 shall not be taken into account.

12 “(3) AVERAGE FEE REQUIREMENT.—The aver-
13 age fee charged under the program required by sub-
14 section (a) shall not be less than the amount deter-
15 mined under the following table:

“Category	Average Fee
Employee plan ruling and opinion	\$250
Exempt organization ruling	\$350
Employee plan determination	\$300
Exempt organization determination	\$275
Chief counsel ruling	\$200.

16 “(c) TERMINATION.—No fee shall be imposed under
17 this section with respect to requests made after September
18 30, 2013.”.

19 (b) CONFORMING AMENDMENTS.—



1 (1) The table of sections for chapter 77 is
2 amended by adding at the end the following new
3 item:

 “Sec. 7529. Internal Revenue Service user fees.”.

4 (2) Section 10511 of the Revenue Act of 1987
5 is repealed.

6 (3) Section 620 of the Economic Growth and
7 Tax Relief Reconciliation Act of 2001 is repealed.

8 (c) LIMITATIONS.—Notwithstanding any other provi-
9 sion of law, any fees collected pursuant to section 7527
10 of the Internal Revenue Code of 1986, as added by sub-
11 section (a), shall not be expended by the Internal Revenue
12 Service unless provided by an appropriations Act.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to requests made after the date
15 of the enactment of this Act.

16 **Subtitle F—Low-Income Taxpayer** 17 **Clinics**

18 **SEC. 381. LOW-INCOME TAXPAYER CLINICS.**

19 (a) LIMITATION ON AMOUNT OF GRANTS.—Para-
20 graph (1) of section 7526(c) (relating to special rules and
21 limitations) is amended by striking “\$6,000,000 per year”
22 and inserting “\$9,000,000 for 2004, \$12,000,000 for
23 2005, and \$15,000,000 for each year thereafter”.



1 (b) PROMOTION OF CLINICS.—Section 7526(c) is
2 amended by adding at the end the following new para-
3 graph:

4 “(6) PROMOTION OF CLINICS.—The Secretary
5 is authorized to promote the benefits of and encour-
6 age the use of low-income taxpayer clinics through
7 the use of mass communications, referrals, and other
8 means.”.

9 (c) USE OF GRANTS FOR OVERHEAD EXPENSES
10 PROHIBITED.—Section 7526(c), as amended by sub-
11 section (b), is further amended by adding at the end the
12 following new paragraph:

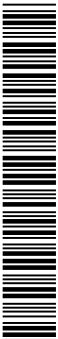
13 “(7) USE OF GRANTS FOR OVERHEAD EX-
14 PENSES PROHIBITED.—No grant made under this
15 section may be used for the general overhead ex-
16 penses of any institution sponsoring a qualified low-
17 income taxpayer clinic.”.

18 (d) ELIGIBLE CLINICS.—

19 (1) IN GENERAL.—Paragraph (2) of section
20 7526(b) is amended to read as follows:

21 “(2) ELIGIBLE CLINIC.—The term ‘eligible clin-
22 ic’ means—

23 “(A) any clinical program at an accredited
24 law, business, or accounting school in which



1 students represent low-income taxpayers in con-
2 troversies arising under this title; and

3 “(B) any organization described in section
4 501(c) and exempt from tax under section
5 501(a) which satisfies the requirements of para-
6 graph (1) through representation of taxpayers
7 or referral of taxpayers to qualified representa-
8 tives.”.

9 (2) CONFORMING AMENDMENT.—Subparagraph
10 (A) of section 7526(b)(1) is amended by striking
11 “means a clinic” and inserting “means an eligible
12 clinic”.

13 **SEC. 382. MATCHING GRANTS TO LOW INCOME RETURN**
14 **PREPARATION CLINICS.**

15 (a) IN GENERAL.—Chapter 77 (relating to miscella-
16 neous provisions) is amended by inserting after section
17 7526 the following new section:

18 **“SEC. 7526A. LOW INCOME RETURN PREPARATION CLINICS.**

19 “(a) IN GENERAL.—The Secretary may, subject to
20 the availability of appropriated funds, make grants to pro-
21 vide matching funds for the development, expansion, or
22 continuation of qualified return preparation clinics.

23 “(b) DEFINITIONS.—For purposes of this section—

24 “(1) QUALIFIED RETURN PREPARATION CLIN-
25 IC.—



1 “(A) IN GENERAL.—The term ‘qualified
2 return preparation clinic’ means an eligible clin-
3 ic which—

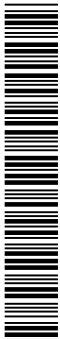
4 “(i) does not charge more than a
5 nominal fee for its services (except for re-
6 imbursement of actual costs incurred), and

7 “(ii) operates programs which assist
8 low-income taxpayers in preparing and fil-
9 ing their Federal income tax returns, in-
10 cluding schedules reporting sole proprietor-
11 ship or farm income.

12 “(B) ASSISTANCE TO LOW-INCOME TAX-
13 PAYERS.—A clinic is treated as assisting low-in-
14 come taxpayers under subparagraph (A)(ii) if
15 at least 90 percent of the taxpayers assisted by
16 the clinic have incomes which do not exceed 250
17 percent of the poverty level, as determined in
18 accordance with criteria established by the Di-
19 rector of the Office of Management and Budg-
20 et.

21 “(2) ELIGIBLE CLINIC.—The term ‘eligible clin-
22 ic’ includes—

23 “(A) a clinical program at an eligible edu-
24 cational institution (as defined in section
25 529(e)(5)) which satisfies the requirements of



1 paragraph (1) through student assistance of
2 taxpayers in return preparation and filing, and

3 “(B) an organization described in section
4 501(c) and exempt from tax under section
5 501(a) which satisfies the requirements of para-
6 graph (1).

7 “(c) SPECIAL RULES AND LIMITATIONS.—

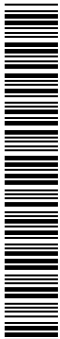
8 “(1) AGGREGATE LIMITATION.—Unless other-
9 wise provided by specific appropriation, the Sec-
10 retary shall not allocate more than \$10,000,000 per
11 year (exclusive of costs of administering the pro-
12 gram) to grants under this section.

13 “(2) OTHER APPLICABLE RULES.—Rules simi-
14 lar to the rules under paragraphs (2) through (7) of
15 section 7526(c) shall apply with respect to the
16 awarding of grants to qualified return preparation
17 clinics.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for chapter 77 is amended by inserting after the item re-
20 lating to section 7526 the following new item:

“Sec. 7526A. Low income return preparation clinics.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to grants made after the date of
23 the enactment of this Act.



1 **TITLE IV—CHILD TAX CREDIT**

2 **SEC. 401. ACCELERATION OF INCREASE IN REFUNDABILITY**
3 **OF THE CHILD TAX CREDIT.**

4 (a) ACCELERATION OF REFUNDABILITY.—

5 (1) IN GENERAL.—Section 24(d)(1)(B)(i) of the
6 Internal Revenue Code of 1986 (relating to portion
7 of credit refundable) is amended by striking “(10
8 percent in the case of taxable years beginning before
9 January 1, 2005)”.

10 (2) ADVANCE PAYMENT.—Subsection (b) of sec-
11 tion 6429 of such Code (relating to advance pay-
12 ment of portion of increased child credit for 2003)
13 is amended by striking “and” at the end of para-
14 graph (2), by striking the period at the end of para-
15 graph (3) and inserting “, and”, and by adding at
16 the end the following new paragraph:

17 “(4) section 24(d)(1)(B)(i) applied without re-
18 gard to the first parenthetical therein.”.

19 (3) EARNED INCOME INCLUDES COMBAT PAY.—
20 Section 24(d)(1) of such Code is amended by adding
21 at the end the following new sentence: “For pur-
22 poses of subparagraph (B), any amount excluded
23 from gross income by reason of section 112 shall be
24 treated as earned income which is taken into ac-



1 count in computing taxable income for the taxable
2 year.”.

3 (b) EFFECTIVE DATES.—

4 (1) SUBSECTIONS (a)(1) AND (a)(3).—The
5 amendments made by subsections (a)(1) and (a)(3)
6 shall apply to taxable years beginning after Decem-
7 ber 31, 2002.

8 (2) SUBSECTION (a)(2).—The amendments
9 made by subsection (a)(2) shall take effect as if in-
10 cluded in the amendments made by section 101(b)
11 of the Jobs and Growth Tax Relief Reconciliation
12 Act of 2003.

13 **SEC. 402. REDUCTION IN MARRIAGE PENALTY IN CHILD**
14 **TAX CREDIT.**

15 (a) IN GENERAL.—Section 24(b)(2) of the Internal
16 Revenue Code of 1986 (defining threshold amount) is
17 amended—

18 (1) by inserting “(\$115,000 for taxable years
19 beginning in 2008 or 2009, and \$150,000 for tax-
20 able years beginning in 2010)” after “\$110,000”,
21 and

22 (2) by striking “\$55,000” in subparagraph (C)
23 and inserting “ $\frac{1}{2}$ of the amount in effect under sub-
24 paragraph (A)”.



1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2002.

4 **SEC. 403. APPLICATION OF EGTRRA SUNSET TO THIS SEC-**
5 **TION.**

6 Each amendment made by this title shall be subject
7 to title IX of the Economic Growth and Tax Relief Rec-
8 onciliation Act of 2001 to the same extent and in the same
9 manner as the provision of such Act to which such amend-
10 ment relates.

11 **TITLE V—UNIFORM DEFINITION**
12 **OF CHILD**

13 **SEC. 501. UNIFORM DEFINITION OF CHILD, ETC.**

14 Section 152 of the Internal Revenue Code of 1986
15 is amended to read as follows:

16 **“SEC. 152. DEPENDENT DEFINED.**

17 “(a) IN GENERAL.—For purposes of this subtitle, the
18 term ‘dependent’ means—

19 “(1) a qualifying child, or

20 “(2) a qualifying relative.

21 “(b) EXCEPTIONS.—For purposes of this section—

22 “(1) DEPENDENTS INELIGIBLE.—If an indi-
23 vidual is a dependent of a taxpayer for any taxable
24 year of such taxpayer beginning in a calendar year,
25 such individual shall be treated as having no depend-



1 ents for any taxable year of such individual begin-
2 ning in such calendar year.

3 “(2) MARRIED DEPENDENTS.—An individual
4 shall not be treated as a dependent of a taxpayer
5 under subsection (a) if such individual has made a
6 joint return with the individual’s spouse under sec-
7 tion 6013 for the taxable year beginning in the cal-
8 endar year in which the taxable year of the taxpayer
9 begins.

10 “(3) CITIZENS OR NATIONALS OF OTHER COUN-
11 TRIES.—

12 “(A) IN GENERAL.—The term ‘dependent’
13 does not include an individual who is not a cit-
14 izen or national of the United States unless
15 such individual is a resident of the United
16 States or a country contiguous to the United
17 States.

18 “(B) EXCEPTION FOR ADOPTED CHILD.—
19 Subparagraph (A) shall not exclude any child of
20 a taxpayer (within the meaning of subsection
21 (f)(1)(B)) from the definition of ‘dependent’
22 if—

23 “(i) for the taxable year of the tax-
24 payer, the child’s principal place of abode
25 is the home of the taxpayer, and



1 “(ii) the taxpayer is a citizen or na-
2 tional of the United States.

3 “(c) QUALIFYING CHILD.—For purposes of this
4 section—

5 “(1) IN GENERAL.—The term ‘qualifying child’
6 means, with respect to any taxpayer for any taxable
7 year, an individual—

8 “(A) who bears a relationship to the tax-
9 payer described in paragraph (2),

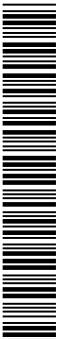
10 “(B) who has the same principal place of
11 abode as the taxpayer for more than one-half of
12 such taxable year,

13 “(C) who meets the age requirements of
14 paragraph (3), and

15 “(D) who has not provided over one-half of
16 such individual’s own support for the calendar
17 year in which the taxable year of the taxpayer
18 begins.

19 “(2) RELATIONSHIP TEST.—For purposes of
20 paragraph (1)(A), an individual bears a relationship
21 to the taxpayer described in this paragraph if such
22 individual is—

23 “(A) a child of the taxpayer or a descend-
24 ant of such a child, or



1 “(B) a brother, sister, stepbrother, or step-
2 sister of the taxpayer or a descendant of any
3 such relative.

4 “(3) AGE REQUIREMENTS.—

5 “(A) IN GENERAL.—For purposes of para-
6 graph (1)(C), an individual meets the require-
7 ments of this paragraph if such individual—

8 “(i) has not attained the age of 19 as
9 of the close of the calendar year in which
10 the taxable year of the taxpayer begins, or

11 “(ii) is a student who has not attained
12 the age of 24 as of the close of such cal-
13 endar year.

14 “(B) SPECIAL RULE FOR DISABLED.—In
15 the case of an individual who is permanently
16 and totally disabled (as defined in section
17 22(e)(3)) at any time during such calendar
18 year, the requirements of subparagraph (A)
19 shall be treated as met with respect to such in-
20 dividual.

21 “(4) SPECIAL RULE RELATING TO 2 OR MORE
22 CLAIMING QUALIFYING CHILD.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B) and subsection (e), if (but for
25 this paragraph) an individual may be and is



1 claimed as a qualifying child by 2 or more tax-
2 payers for a taxable year beginning in the same
3 calendar year, such individual shall be treated
4 as the qualifying child of the taxpayer who is—

5 “(i) a parent of the individual, or

6 “(ii) if clause (i) does not apply, the
7 taxpayer with the highest adjusted gross
8 income for such taxable year.

9 “(B) MORE THAN 1 PARENT CLAIMING
10 QUALIFYING CHILD.—If the parents claiming
11 any qualifying child do not file a joint return
12 together, such child shall be treated as the
13 qualifying child of—

14 “(i) the parent with whom the child
15 resided for the longest period of time dur-
16 ing the taxable year, or

17 “(ii) if the child resides with both par-
18 ents for the same amount of time during
19 such taxable year, the parent with the
20 highest adjusted gross income.

21 “(d) QUALIFYING RELATIVE.—For purposes of this
22 section—

23 “(1) IN GENERAL.—The term ‘qualifying rel-
24 ative’ means, with respect to any taxpayer for any
25 taxable year, an individual—



1 “(A) who bears a relationship to the tax-
2 payer described in paragraph (2),

3 “(B) whose gross income for the calendar
4 year in which such taxable year begins is less
5 than the exemption amount (as defined in sec-
6 tion 151(d)),

7 “(C) with respect to whom the taxpayer
8 provides over one-half of the individual’s sup-
9 port for the calendar year in which such taxable
10 year begins, and

11 “(D) who is not a qualifying child of such
12 taxpayer or of any other taxpayer for any tax-
13 able year beginning in the calendar year in
14 which such taxable year begins.

15 “(2) RELATIONSHIP.—For purposes of para-
16 graph (1)(A), an individual bears a relationship to
17 the taxpayer described in this paragraph if the indi-
18 vidual is any of the following with respect to the tax-
19 payer:

20 “(A) A child or a descendant of a child.

21 “(B) A brother, sister, stepbrother, or
22 stepsister.

23 “(C) The father or mother, or an ancestor
24 of either.

25 “(D) A stepfather or stepmother.



1 “(E) A son or daughter of a brother or sis-
2 ter of the taxpayer.

3 “(F) A brother or sister of the father or
4 mother of the taxpayer.

5 “(G) A son-in-law, daughter-in-law, father-
6 in-law, mother-in-law, brother-in-law, or sister-
7 in-law.

8 “(H) An individual (other than an indi-
9 vidual who at any time during the taxable year
10 was the spouse, determined without regard to
11 section 7703, of the taxpayer) who, for the tax-
12 able year of the taxpayer, has as such individ-
13 ual’s principal place of abode the home of the
14 taxpayer and is a member of the taxpayer’s
15 household.

16 “(3) SPECIAL RULE RELATING TO MULTIPLE
17 SUPPORT AGREEMENTS.—For purposes of paragraph
18 (1)(C), over one-half of the support of an individual
19 for a calendar year shall be treated as received from
20 the taxpayer if—

21 “(A) no one person contributed over one-
22 half of such support,

23 “(B) over one-half of such support was re-
24 ceived from 2 or more persons each of whom,
25 but for the fact that any such person alone did



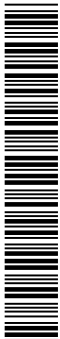
1 not contribute over one-half of such support,
2 would have been entitled to claim such indi-
3 vidual as a dependent for a taxable year begin-
4 ning in such calendar year,

5 “(C) the taxpayer contributed over 10 per-
6 cent of such support, and

7 “(D) each person described in subpara-
8 graph (B) (other than the taxpayer) who con-
9 tributed over 10 percent of such support files a
10 written declaration (in such manner and form
11 as the Secretary may by regulations prescribe)
12 that such person will not claim such individual
13 as a dependent for any taxable year beginning
14 in such calendar year.

15 “(4) SPECIAL RULE RELATING TO INCOME OF
16 HANDICAPPED DEPENDENTS.—

17 “(A) IN GENERAL.—For purposes of para-
18 graph (1)(B), the gross income of an individual
19 who is permanently and totally disabled (as de-
20 fined in section 22(e)(3)) at any time during
21 the taxable year shall not include income attrib-
22 utable to services performed by the individual
23 at a sheltered workshop if—



1 “(i) the availability of medical care at
2 such workshop is the principal reason for
3 the individual’s presence there, and

4 “(ii) the income arises solely from ac-
5 tivities at such workshop which are inci-
6 dent to such medical care.

7 “(B) SHELTERED WORKSHOP DEFINED.—
8 For purposes of subparagraph (A), the term
9 ‘sheltered workshop’ means a school—

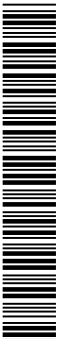
10 “(i) which provides special instruction
11 or training designed to alleviate the dis-
12 ability of the individual, and

13 “(ii) which is operated by an organi-
14 zation described in section 501(c)(3) and
15 exempt from tax under section 501(a), or
16 by a State, a possession of the United
17 States, any political subdivision of any of
18 the foregoing, the United States, or the
19 District of Columbia.

20 “(5) SPECIAL SUPPORT TEST IN CASE OF STU-
21 DENTS.—For purposes of paragraph (1)(C), in the
22 case of an individual who is—

23 “(A) a child of the taxpayer, and

24 “(B) a student,



1 amounts received as scholarships for study at an
2 educational organization described in section
3 170(b)(1)(A)(ii) shall not be taken into account in
4 determining whether such individual received more
5 than one-half of such individual's support from the
6 taxpayer.

7 “(6) SPECIAL RULES FOR SUPPORT.—For pur-
8 poses of this subsection—

9 “(A) payments to a spouse which are in-
10 cludible in the gross income of such spouse
11 under section 71 or 682 shall not be treated as
12 a payment by the payor spouse for the support
13 of any dependent,

14 “(B) amounts expended for the support of
15 a child or children shall be treated as received
16 from the noncustodial parent (as defined in
17 subsection (e)(3)(B)) to the extent that such
18 parent provided amounts for such support, and

19 “(C) in the case of the remarriage of a
20 parent, support of a child received from the
21 parent's spouse shall be treated as received
22 from the parent.

23 “(e) SPECIAL RULE FOR DIVORCED PARENTS.—

24 “(1) IN GENERAL.—Notwithstanding subsection
25 (c)(4) or (d)(1)(C), if—



1 “(A) a child receives over one-half of the
2 child’s support during the calendar year from
3 the child’s parents—

4 “(i) who are divorced or legally sepa-
5 rated under a decree of divorce or separate
6 maintenance,

7 “(ii) who are separated under a writ-
8 ten separation agreement, or

9 “(iii) who live apart at all times dur-
10 ing the last 6 months of the calendar year,
11 and

12 “(B) such child is in the custody of 1 or
13 both of the child’s parents for more than ½ of
14 the calendar year,

15 such child shall be treated as being the qualifying
16 child or qualifying relative of the noncustodial par-
17 ent for a calendar year if the requirements described
18 in paragraph (2) are met.

19 “(2) REQUIREMENTS.—For purposes of para-
20 graph (1), the requirements described in this para-
21 graph are met if—

22 “(A) a decree of divorce or separate main-
23 tenance or written separation agreement be-
24 tween the parents applicable to the taxable year
25 beginning in such calendar year provides that—



1 “(i) the noncustodial parent shall be
2 entitled to any deduction allowable under
3 section 151 for such child, or

4 “(ii) the custodial parent will sign a
5 written declaration (in such manner and
6 form as the Secretary may prescribe) that
7 such parent will not claim such child as a
8 dependent for such taxable year, and

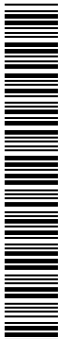
9 “(B) in the case of such an agreement exe-
10 cuted before January 1, 1985, the noncustodial
11 parent provides at least \$600 for the support of
12 such child during such calendar year.

13 “(3) CUSTODIAL PARENT AND NONCUSTODIAL
14 PARENT.—For purposes of this subsection—

15 “(A) CUSTODIAL PARENT.—The term ‘cus-
16 todial parent’ means the parent with whom a
17 child shared the same principal place of abode
18 for the greater portion of the calendar year.

19 “(B) NONCUSTODIAL PARENT.—The term
20 ‘noncustodial parent’ means the parent who is
21 not the custodial parent.

22 “(4) EXCEPTION FOR MULTIPLE-SUPPORT
23 AGREEMENTS.—This subsection shall not apply in
24 any case where over one-half of the support of the



1 child is treated as having been received from a tax-
2 payer under the provision of subsection (d)(3).

3 “(f) OTHER DEFINITIONS AND RULES.—For pur-
4 poses of this section—

5 “(1) CHILD DEFINED.—

6 “(A) IN GENERAL.—The term ‘child’
7 means an individual who is—

8 “(i) a son, daughter, stepson, or step-
9 daughter of the taxpayer, or

10 “(ii) an eligible foster child of the tax-
11 payer.

12 “(B) ADOPTED CHILD.—In determining
13 whether any of the relationships specified in
14 subparagraph (A)(i) or paragraph (4) exists, a
15 legally adopted individual of the taxpayer, or an
16 individual who is placed with the taxpayer by
17 an authorized placement agency for adoption by
18 the taxpayer, shall be treated as a child of such
19 individual by blood.

20 “(C) ELIGIBLE FOSTER CHILD.—For pur-
21 poses of subparagraph (A)(ii), the term ‘eligible
22 foster child’ means an individual who is placed
23 with the taxpayer by an authorized placement
24 agency or by judgment, decree, or other order
25 of any court of competent jurisdiction.



1 “(2) STUDENT DEFINED.—The term ‘student’
2 means an individual who during each of 5 calendar
3 months during the calendar year in which the tax-
4 able year of the taxpayer begins—

5 “(A) is a full-time student at an edu-
6 cational organization described in section
7 170(b)(1)(A)(ii), or

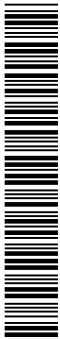
8 “(B) is pursuing a full-time course of insti-
9 tutional on-farm training under the supervision
10 of an accredited agent of an educational organi-
11 zation described in section 170(b)(1)(A)(ii) or
12 of a State or political subdivision of a State.

13 “(3) PLACE OF ABODE.—An individual shall
14 not be treated as having the same principal place of
15 abode of the taxpayer if at any time during the tax-
16 able year of the taxpayer the relationship between
17 the individual and the taxpayer is in violation of
18 local law.

19 “(4) BROTHER AND SISTER.—The terms
20 ‘brother’ and ‘sister’ include a brother or sister by
21 the half blood.

22 “(5) TREATMENT OF MISSING CHILDREN.—

23 “(A) IN GENERAL.—Solely for the pur-
24 poses referred to in subparagraph (B), a child
25 of the taxpayer—



1 “(i) who is presumed by law enforce-
2 ment authorities to have been kidnapped
3 by someone who is not a member of the
4 family of such child or the taxpayer, and

5 “(ii) who had, for the taxable year in
6 which the kidnapping occurred, the same
7 principal place of abode as the taxpayer for
8 more than one-half of the portion of such
9 year before the date of the kidnapping,
10 shall be treated as meeting the requirement of
11 subsection (c)(1)(B) with respect to a taxpayer
12 for all taxable years ending during the period
13 that the individual is kidnapped.

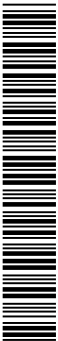
14 “(B) PURPOSES.—Subparagraph (A) shall
15 apply solely for purposes of determining—

16 “(i) the deduction under section
17 151(c),

18 “(ii) the credit under section 24 (re-
19 lating to child tax credit),

20 “(iii) whether an individual is a sur-
21 viving spouse or a head of a household (as
22 such terms are defined in section 2), and

23 “(iv) the earned income credit under
24 section 32.



1 “(C) COMPARABLE TREATMENT OF CER-
2 TAIN QUALIFYING RELATIVES.—For purposes
3 of this section, a child of the taxpayer—

4 “(i) who is presumed by law enforce-
5 ment authorities to have been kidnapped
6 by someone who is not a member of the
7 family of such child or the taxpayer, and

8 “(ii) who was (without regard to this
9 paragraph) a qualifying relative of the tax-
10 payer for the portion of the taxable year
11 before the date of the kidnapping,
12 shall be treated as a qualifying relative of the
13 taxpayer for all taxable years ending during the
14 period that the child is kidnapped.

15 “(D) TERMINATION OF TREATMENT.—
16 Subparagraphs (A) and (C) shall cease to apply
17 as of the first taxable year of the taxpayer be-
18 ginning after the calendar year in which there
19 is a determination that the child is dead (or, if
20 earlier, in which the child would have attained
21 age 18).



1 “(6) CROSS REFERENCES.—

“For provision treating child as dependent of both
parents for purposes of certain provisions, see sec-
tions 105(b), 132(h)(2)(B), and 213(d)(5).”.

2 **SEC. 502. MODIFICATIONS OF DEFINITION OF HEAD OF**
3 **HOUSEHOLD.**

4 (a) HEAD OF HOUSEHOLD.—Clause (i) of section
5 2(b)(1)(A) of the Internal Revenue Code of 1986 is
6 amended to read as follows:

7 “(i) a qualifying child of the indi-
8 vidual (as defined in section 152(c), deter-
9 mined without regard to section 152(e)),
10 but not if such child—

11 “(I) is married at the close of the
12 taxpayer’s taxable year, and

13 “(II) is not a dependent of such
14 individual by reason of section
15 152(b)(2) or 152(b)(3), or both, or”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 2(b)(2) of the Internal Revenue
18 Code of 1986 is amended by striking subparagraph
19 (A) and by redesignating subparagraphs (B), (C),
20 and (D) as subparagraphs (A), (B), and (C), respec-
21 tively.

22 (2) Clauses (i) and (ii) of section 2(b)(3)(B) of
23 such Code are amended to read as follows:



1 “(i) subparagraph (H) of section
2 152(d)(2), or
3 “(ii) paragraph (3) of section
4 152(d).”.

5 **SEC. 503. MODIFICATIONS OF DEPENDENT CARE CREDIT.**

6 (a) IN GENERAL.—Section 21(a)(1) of the Internal
7 Revenue Code of 1986 is amended by striking “In the case
8 of an individual who maintains a household which includes
9 as a member one or more qualifying individuals (as de-
10 fined in subsection (b)(1))” and inserting “In the case of
11 an individual for which there are 1 or more qualifying indi-
12 viduals (as defined in subsection (b)(1)) with respect to
13 such individual”.

14 (b) QUALIFYING INDIVIDUAL.—Paragraph (1) of sec-
15 tion 21(b) of the Internal Revenue Code of 1986 is amend-
16 ed to read as follows:

17 “(1) QUALIFYING INDIVIDUAL.—The term
18 ‘qualifying individual’ means—

19 “(A) a dependent of the taxpayer (as de-
20 fined in section 152(a)(1)) who has not attained
21 age 13,

22 “(B) a dependent of the taxpayer who is
23 physically or mentally incapable of caring for
24 himself or herself and who has the same prin-



1 ciplal place of abode as the taxpayer for more
2 than one-half of such taxable year, or

3 “(C) the spouse of the taxpayer, if the
4 spouse is physically or mentally incapable of
5 caring for himself or herself and who has the
6 same principal place of abode as the taxpayer
7 for more than one-half of such taxable year.”.

8 (c) CONFORMING AMENDMENT.—Paragraph (1) of
9 section 21(e) of the Internal Revenue Code of 1986 is
10 amended to read as follows:

11 “(1) PLACE OF ABODE.—An individual shall
12 not be treated as having the same principal place of
13 abode of the taxpayer if at any time during the tax-
14 able year of the taxpayer the relationship between
15 the individual and the taxpayer is in violation of
16 local law.”.

17 **SEC. 504. MODIFICATIONS OF CHILD TAX CREDIT.**

18 (a) IN GENERAL.—Paragraph (1) of section 24(c) of
19 the Internal Revenue Code of 1986 is amended to read
20 as follows:

21 “(1) IN GENERAL.—The term ‘qualifying child’
22 means a qualifying child of the taxpayer (as defined
23 in section 152(c)) who has not attained age 17.”.

24 (b) CONFORMING AMENDMENT.—Section 24(c)(2) of
25 the Internal Revenue Code of 1986 is amended by striking



1 “the first sentence of section 152(b)(3)” and inserting
2 “subparagraph (A) of section 152(b)(3)”.

3 **SEC. 505. MODIFICATIONS OF EARNED INCOME CREDIT.**

4 (a) **QUALIFYING CHILD.**—Paragraph (3) of section
5 32(c) of the Internal Revenue Code of 1986 is amended
6 to read as follows:

7 “(3) **QUALIFYING CHILD.**—

8 “(A) **IN GENERAL.**—The term ‘qualifying
9 child’ means a qualifying child of the taxpayer
10 (as defined in section 152(c), determined with-
11 out regard to paragraph (1)(D) thereof and sec-
12 tion 152(e)).

13 “(B) **MARRIED INDIVIDUAL.**—The term
14 ‘qualifying child’ shall not include an individual
15 who is married as of the close of the taxpayer’s
16 taxable year unless the taxpayer is entitled to
17 a deduction under section 151 for such taxable
18 year with respect to such individual (or would
19 be so entitled but for section 152(e)).

20 “(C) **PLACE OF ABODE.**—For purposes of
21 subparagraph (A), the requirements of section
22 152(c)(1)(B) shall be met only if the principal
23 place of abode is in the United States.

24 “(D) **IDENTIFICATION REQUIREMENTS.**—



1 “(i) IN GENERAL.—A qualifying child
2 shall not be taken into account under sub-
3 section (b) unless the taxpayer includes the
4 name, age, and TIN of the qualifying child
5 on the return of tax for the taxable year.

6 “(ii) OTHER METHODS.—The Sec-
7 retary may prescribe other methods for
8 providing the information described in
9 clause (i).”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 32(c)(1) of the Internal Revenue
12 Code of 1986 is amended by striking subparagraph
13 (C) and by redesignating subparagraphs (D), (E),
14 (F), and (G) as subparagraphs (C), (D), (E), and
15 (F), respectively.

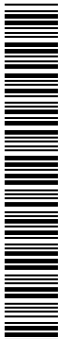
16 (2) Section 32(c)(4) of such Code is amended
17 by striking “(3)(E)” and inserting “(3)(C)”.

18 (3) Section 32(m) of such Code is amended by
19 striking “subsections (c)(1)(F)” and inserting “sub-
20 sections (c)(1)(E)”.

21 **SEC. 506. MODIFICATIONS OF DEDUCTION FOR PERSONAL**

22 **EXEMPTION FOR DEPENDENTS.**

23 Subsection (c) of section 151 of the Internal Revenue
24 Code of 1986 is amended to read as follows:



1 “(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—
2 An exemption of the exemption amount for each individual
3 who is a dependent (as defined in section 152) of the tax-
4 payer for the taxable year.”.

5 **SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.**

6 (1) Section 2(a)(1)(B)(i) of such Code is
7 amended by inserting “, determined without regard
8 to subsections (b)(1), (b)(2), and (d)(1)(B) thereof”
9 after “section 152”.

10 (2) Section 21(e)(5) of the Internal Revenue
11 Code of 1986 is amended—

12 (A) by striking “paragraph (2) or (4) of”
13 in subparagraph (A), and

14 (B) by striking “within the meaning of sec-
15 tion 152(e)(1)” and inserting “as defined in
16 section 152(e)(3)(A)”.

17 (3) Section 21(e)(6)(B) of such Code is amend-
18 ed by striking “section 151(c)(3)” and inserting
19 “section 152(f)(1)”.

20 (4) Section 25B(c)(2)(B) of such Code is
21 amended by striking “151(c)(4)” and inserting
22 “152(f)(2)”.

23 (5)(A) Subparagraphs (A) and (B) of section
24 51(i)(1) of such Code are each amended by striking
25 “paragraphs (1) through (8) of section 152(a)” both



1 places it appears and inserting “subparagraphs (A)
2 through (G) of section 152(d)(2)”.

3 (B) Section 51(i)(1)(C) of such Code is amend-
4 ed by striking “152(a)(9)” and inserting
5 “152(d)(2)(H)”.

6 (6) Section 72(t)(2)(D)(i)(III) of such Code is
7 amended by inserting “, determined without regard
8 to subsections (b)(1), (b)(2), and (d)(1)(B) thereof”
9 after “section 152”.

10 (7) Section 72(t)(7)(A)(iii) of such Code is
11 amended by striking “151(c)(3)” and inserting
12 “152(f)(1)”.

13 (8) Section 42(i)(3)(D)(ii)(I) of such Code is
14 amended by inserting “, determined without regard
15 to subsections (b)(1), (b)(2), and (d)(1)(B) thereof”
16 after “section 152”.

17 (9) Subsections (b) and (c)(1) of section 105 of
18 such Code are amended by inserting “, determined
19 without regard to subsections (b)(1), (b)(2), and
20 (d)(1)(B) thereof” after “section 152”.

21 (10) Section 120(d)(4) of such Code is amend-
22 ed by inserting “(determined without regard to sub-
23 sections (b)(1), (b)(2), and (d)(1)(B) thereof)” after
24 “section 152”.



1 (11) Section 125(e)(1)(D) of such Code is
2 amended by inserting “, determined without regard
3 to subsections (b)(1), (b)(2), and (d)(1)(B) thereof”
4 after “section 152”.

5 (12) Section 129(c)(2) of such Code is amended
6 by striking “151(c)(3)” and inserting “152(f)(1)”.

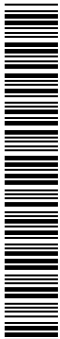
7 (13) The first sentence of section 132(h)(2)(B)
8 of such Code is amended by striking “151(c)(3)”
9 and inserting “152(f)(1)”.

10 (14) Section 153 of such Code is amended by
11 striking paragraph (1) and by redesignating para-
12 graphs (2), (3), and (4) as paragraphs (1), (2), and
13 (3), respectively.

14 (15) Section 170(g)(1) of such Code is amend-
15 ed by inserting “(determined without regard to sub-
16 sections (b)(1), (b)(2), and (d)(1)(B) thereof” after
17 “section 152”.

18 (16) Section 170(g)(3) of such Code is amend-
19 ed by striking “paragraphs (1) through (8) of sec-
20 tion 152(a)” and inserting “subparagraphs (A)
21 through (G) of section 152(d)(2)”.

22 (17) Section 213(a) of such Code is amended
23 by inserting “, determined without regard to sub-
24 sections (b)(1), (b)(2), and (d)(1)(B) thereof” after
25 “section 152”.



1 (18) The second sentence of section 213(d)(11)
2 of such Code is amended by striking “paragraphs
3 (1) through (8) of section 152(a)” and inserting
4 “subparagraphs (A) through (G) of section
5 152(d)(2)”.

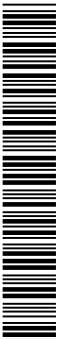
6 (19) Section 220(d)(2)(A) of such Code is
7 amended by inserting “, determined without regard
8 to subsections (b)(1), (b)(2), and (d)(1)(B) thereof”
9 after “section 152”.

10 (20) Section 221(d)(4) of such Code is amend-
11 ed by inserting “(determined without regard to sub-
12 sections (b)(1), (b)(2), and (d)(1)(B) thereof” after
13 “section 152”.

14 (21) Section 529(e)(2)(B) of such Code is
15 amended by striking “paragraphs (1) through (8) of
16 section 152(a)” and inserting “subparagraphs (A)
17 through (G) of section 152(d)(2)”.

18 (22) Section 2032A(c)(7)(D) of such Code is
19 amended by striking “section 151(c)(4)” and insert-
20 ing “section 152(f)(2)”.

21 (23) Section 2057(d)(2)(B) of such Code is
22 amended by inserting “, determined without regard
23 to subsections (b)(1), (b)(2), and (d)(1)(B) thereof”
24 after “section 152”.



1 (24) Section 7701(a)(17) of such Code is
2 amended by striking “152(b)(4), 682,” and inserting
3 “682”.

4 (25) Section 7702B(f)(2)(C)(iii) of such Code is
5 amended by striking “paragraphs (1) through (8) of
6 section 152(a)” and inserting “subparagraphs (A)
7 through (G) of section 152(d)(2)”.

8 (26) Section 7703(b)(1) of such Code is
9 amended—

10 (A) by striking “151(c)(3)” and inserting
11 “152(f)(1)”, and

12 (B) by striking “paragraph (2) or (4) of”.

13 **SEC. 508. EFFECTIVE DATE.**

14 The amendments made by this title shall apply to tax-
15 able years beginning after December 31, 2003.

16 **TITLE VI—IMPROVING TAX EQ-**
17 **UITY FOR MILITARY PER-**
18 **SONNEL**

19 **SEC. 601. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL**
20 **RESIDENCE BY A MEMBER OF THE UNI-**
21 **FORMED SERVICES OR THE FOREIGN SERV-**
22 **ICE.**

23 (a) IN GENERAL.—Subsection (d) of section 121 (re-
24 lating to exclusion of gain from sale of principal residence)
25 is amended by redesignating paragraph (9) as paragraph



1 (10) and by inserting after paragraph (8) the following
2 new paragraph:

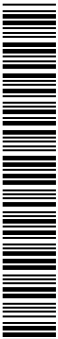
3 “(9) MEMBERS OF UNIFORMED SERVICES AND
4 FOREIGN SERVICE.—

5 “(A) IN GENERAL.—At the election of an
6 individual with respect to a property, the run-
7 ning of the 5-year period described in sub-
8 sections (a) and (c)(1)(B) and paragraph (7) of
9 this subsection with respect to such property
10 shall be suspended during any period that such
11 individual or such individual’s spouse is serving
12 on qualified official extended duty as a member
13 of the uniformed services or of the Foreign
14 Service of the United States.

15 “(B) MAXIMUM PERIOD OF SUSPENSION.—
16 The 5-year period described in subsection (a)
17 shall not be extended more than 10 years by
18 reason of subparagraph (A).

19 “(C) QUALIFIED OFFICIAL EXTENDED
20 DUTY.—For purposes of this paragraph—

21 “(i) IN GENERAL.—The term ‘quali-
22 fied official extended duty’ means any ex-
23 tended duty while serving at a duty station
24 which is at least 50 miles from such prop-



1 erty or while residing under Government
2 orders in Government quarters.

3 “(ii) UNIFORMED SERVICES.—The
4 term ‘uniformed services’ has the meaning
5 given such term by section 101(a)(5) of
6 title 10, United States Code, as in effect
7 on the date of the enactment of this para-
8 graph.

9 “(iii) FOREIGN SERVICE OF THE
10 UNITED STATES.—The term ‘member of
11 the Foreign Service of the United States’
12 has the meaning given the term ‘member
13 of the Service’ by paragraph (1), (2), (3),
14 (4), or (5) of section 103 of the Foreign
15 Service Act of 1980, as in effect on the
16 date of the enactment of this paragraph.

17 “(iv) EXTENDED DUTY.—The term
18 ‘extended duty’ means any period of active
19 duty pursuant to a call or order to such
20 duty for a period in excess of 90 days or
21 for an indefinite period.

22 “(D) SPECIAL RULES RELATING TO ELEC-
23 TION.—

24 “(i) ELECTION LIMITED TO 1 PROP-
25 erty AT A TIME.—An election under sub-



1 paragraph (A) with respect to any property
2 may not be made if such an election is in
3 effect with respect to any other property.

4 “(ii) REVOCATION OF ELECTION.—An
5 election under subparagraph (A) may be
6 revoked at any time.”.

7 (b) EFFECTIVE DATE; SPECIAL RULE.—

8 (1) EFFECTIVE DATE.—The amendments made
9 by this section shall take effect as if included in the
10 amendments made by section 312 of the Taxpayer
11 Relief Act of 1997.

12 (2) WAIVER OF LIMITATIONS.—If refund or
13 credit of any overpayment of tax resulting from the
14 amendments made by this section is prevented at
15 any time before the close of the 1-year period begin-
16 ning on the date of the enactment of this Act by the
17 operation of any law or rule of law (including res ju-
18 dicata), such refund or credit may nevertheless be
19 made or allowed if claim therefor is filed before the
20 close of such period.

21 **SEC. 602. EXCLUSION FROM GROSS INCOME OF CERTAIN**
22 **DEATH GRATUITY PAYMENTS.**

23 (a) IN GENERAL.—Subsection (b)(3) of section 134
24 (relating to certain military benefits) is amended by add-
25 ing at the end the following new subparagraph:



1 “(C) EXCEPTION FOR DEATH GRATUITY
2 ADJUSTMENTS MADE BY LAW.—Subparagraph
3 (A) shall not apply to any adjustment to the
4 amount of death gratuity payable under chapter
5 75 of title 10, United States Code, which is
6 pursuant to a provision of law enacted after
7 September 9, 1986.”.

8 (b) CONFORMING AMENDMENT.—Subparagraph (A)
9 of section 134(b)(3) is amended by striking “subpara-
10 graph (B)” and inserting “subparagraphs (B) and (C)”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply with respect to deaths occurring
13 after September 10, 2001.

14 **SEC. 603. EXCLUSION FOR AMOUNTS RECEIVED UNDER DE-**
15 **PARTMENT OF DEFENSE HOMEOWNERS AS-**
16 **SISTANCE PROGRAM.**

17 (a) IN GENERAL.—Section 132(a) (relating to the ex-
18 clusion from gross income of certain fringe benefits) is
19 amended by striking “or” at the end of paragraph (6),
20 by striking the period at the end of paragraph (7) and
21 inserting “, or”, and by adding at the end the following
22 new paragraph:

23 “(8) qualified military base realignment and
24 closure fringe.”.



1 (b) QUALIFIED MILITARY BASE REALIGNMENT AND
2 CLOSURE FRINGE.—Section 132 is amended by redesign-
3 nating subsection (n) as subsection (o) and by inserting
4 after subsection (m) the following new subsection:

5 “(n) QUALIFIED MILITARY BASE REALIGNMENT AND
6 CLOSURE FRINGE.—For purposes of this section—

7 “(1) IN GENERAL.—The term ‘qualified mili-
8 tary base realignment and closure fringe’ means 1 or
9 more payments under the authority of section 1013
10 of the Demonstration Cities and Metropolitan Devel-
11 opment Act of 1966 (42 U.S.C. 3374) (as in effect
12 on the date of the enactment of this subsection) to
13 offset the adverse effects on housing values as a re-
14 sult of a military base realignment or closure.

15 “(2) LIMITATION.—With respect to any prop-
16 erty, such term shall not include any payment re-
17 ferred to in paragraph (1) to the extent that the
18 sum of all of such payments related to such property
19 exceeds the maximum amount described in clause
20 (1) of subsection (c) of such section (as in effect on
21 such date).”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to payments made after the date
24 of the enactment of this Act.



1 **SEC. 604. EXPANSION OF COMBAT ZONE FILING RULES TO**
2 **CONTINGENCY OPERATIONS.**

3 (a) IN GENERAL.—Section 7508(a) (relating to time
4 for performing certain acts postponed by reason of service
5 in combat zone) is amended—

6 (1) by inserting “, or when deployed outside the
7 United States away from the individual’s permanent
8 duty station while participating in an operation des-
9 ignated by the Secretary of Defense as a contin-
10 gency operation (as defined in section 101(a)(13) of
11 title 10, United States Code) or which became such
12 a contingency operation by operation of law” after
13 “section 112”,

14 (2) by inserting in the first sentence “or at any
15 time during the period of such contingency oper-
16 ation” after “for purposes of such section”,

17 (3) by inserting “or operation” after “such an
18 area”, and

19 (4) by inserting “or operation” after “such
20 area”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 7508(d) is amended by inserting
23 “or contingency operation” after “area”.

24 (2) The heading for section 7508 is amended by
25 inserting “**OR CONTINGENCY OPERATION**” after
26 “**COMBAT ZONE**”.



1 (3) The item relating to section 7508 in the
2 table of sections for chapter 77 is amended by in-
3 serting “or contingency operation” after “combat
4 zone”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to any period for performing an
7 act which has not expired before the date of the enactment
8 of this Act.

9 **SEC. 605. MODIFICATION OF MEMBERSHIP REQUIREMENT**
10 **FOR EXEMPTION FROM TAX FOR CERTAIN**
11 **VETERANS’ ORGANIZATIONS.**

12 (a) IN GENERAL.—Subparagraph (B) of section
13 501(c)(19) (relating to list of exempt organizations) is
14 amended by striking “or widowers” and inserting “, wid-
15 owers, ancestors, or lineal descendants”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 the date of the enactment of this Act.

19 **SEC. 606. CLARIFICATION OF THE TREATMENT OF CERTAIN**
20 **DEPENDENT CARE ASSISTANCE PROGRAMS.**

21 (a) IN GENERAL.—Section 134(b) (defining qualified
22 military benefit) is amended by adding at the end the fol-
23 lowing new paragraph:

24 “(4) CLARIFICATION OF CERTAIN BENEFITS.—
25 For purposes of paragraph (1), such term includes



1 any dependent care assistance program (as in effect
2 on the date of the enactment of this paragraph) for
3 any individual described in paragraph (1)(A).”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 134(b)(3)(A), as amended by sec-
6 tion 602, is amended by inserting “and paragraph
7 (4)” after “subparagraphs (B) and (C)”.

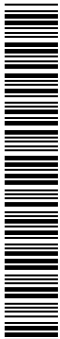
8 (2) Section 3121(a)(18) is amended by striking
9 “or 129” and inserting “, 129, or 134(b)(4)”.

10 (3) Section 3306(b)(13) is amended by striking
11 “or 129” and inserting “, 129, or 134(b)(4)”.

12 (4) Section 3401(a)(18) is amended by striking
13 “or 129” and inserting “, 129, or 134(b)(4)”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2002.

17 (d) NO INFERENCE.—No inference may be drawn
18 from the amendments made by this section with respect
19 to the tax treatment of any amounts under the program
20 described in section 134(b)(4) of the Internal Revenue
21 Code of 1986 (as added by this section) for any taxable
22 year beginning before January 1, 2003.



1 **SEC. 607. CLARIFICATION RELATING TO EXCEPTION FROM**
2 **ADDITIONAL TAX ON CERTAIN DISTRIBU-**
3 **TIONS FROM QUALIFIED TUITION PRO-**
4 **GRAMS, ETC. ON ACCOUNT OF ATTENDANCE**
5 **AT MILITARY ACADEMY.**

6 (a) IN GENERAL.—Subparagraph (B) of section
7 530(d)(4) (relating to exceptions from additional tax for
8 distributions not used for educational purposes) is amend-
9 ed by striking “or” at the end of clause (iii), by redesignig-
10 nating clause (iv) as clause (v), and by inserting after
11 clause (iii) the following new clause:

12 “(iv) made on account of the attend-
13 ance of the designated beneficiary at the
14 United States Military Academy, the
15 United States Naval Academy, the United
16 States Air Force Academy, the United
17 States Coast Guard Academy, or the
18 United States Merchant Marine Academy,
19 to the extent that the amount of the pay-
20 ment or distribution does not exceed the
21 costs of advanced education (as defined by
22 section 2005(e)(3) of title 10, United
23 States Code, as in effect on the date of the
24 enactment of this section) attributable to
25 such attendance, or”.



1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2002.

4 **SEC. 608. SUSPENSION OF TAX-EXEMPT STATUS OF TER-**
5 **RORIST ORGANIZATIONS.**

6 (a) IN GENERAL.—Section 501 (relating to exemp-
7 tion from tax on corporations, certain trusts, etc.) is
8 amended by redesignating subsection (p) as subsection (q)
9 and by inserting after subsection (o) the following new
10 subsection:

11 “(p) SUSPENSION OF TAX-EXEMPT STATUS OF TER-
12 RORIST ORGANIZATIONS.—

13 “(1) IN GENERAL.—The exemption from tax
14 under subsection (a) with respect to any organiza-
15 tion described in paragraph (2), and the eligibility of
16 any organization described in paragraph (2) to apply
17 for recognition of exemption under subsection (a),
18 shall be suspended during the period described in
19 paragraph (3).

20 “(2) TERRORIST ORGANIZATIONS.—An organi-
21 zation is described in this paragraph if such organi-
22 zation is designated or otherwise individually
23 identified—

24 “(A) under section 212(a)(3)(B)(vi)(II) or
25 219 of the Immigration and Nationality Act as



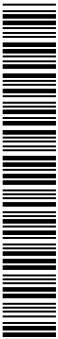
1 a terrorist organization or foreign terrorist or-
2 ganization,

3 “(B) in or pursuant to an Executive order
4 which is related to terrorism and issued under
5 the authority of the International Emergency
6 Economic Powers Act or section 5 of the
7 United Nations Participation Act of 1945 for
8 the purpose of imposing on such organization
9 an economic or other sanction, or

10 “(C) in or pursuant to an Executive order
11 issued under the authority of any Federal law
12 if—

13 “(i) the organization is designated or
14 otherwise individually identified in or pur-
15 suant to such Executive order as sup-
16 porting or engaging in terrorist activity (as
17 defined in section 212(a)(3)(B) of the Im-
18 migration and Nationality Act) or sup-
19 porting terrorism (as defined in section
20 140(d)(2) of the Foreign Relations Author-
21 ization Act, Fiscal Years 1988 and 1989);
22 and

23 “(ii) such Executive order refers to
24 this subsection.



1 “(3) PERIOD OF SUSPENSION.—With respect to
2 any organization described in paragraph (2), the pe-
3 riod of suspension—

4 “(A) begins on the later of—

5 “(i) the date of the first publication of
6 a designation or identification described in
7 paragraph (2) with respect to such organi-
8 zation, or

9 “(ii) the date of the enactment of this
10 subsection, and

11 “(B) ends on the first date that all des-
12 ignations and identifications described in para-
13 graph (2) with respect to such organization are
14 rescinded pursuant to the law or Executive
15 order under which such designation or identi-
16 fication was made.

17 “(4) DENIAL OF DEDUCTION.—No deduction
18 shall be allowed under any provision of this title, in-
19 cluding sections 170, 545(b)(2), 556(b)(2), 642(c),
20 2055, 2106(a)(2), and 2522, with respect to any
21 contribution to an organization described in para-
22 graph (2) during the period described in paragraph
23 (3).

24 “(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL
25 CHALLENGE OF SUSPENSION OR DENIAL OF DEDUC-



1 TION.—Notwithstanding section 7428 or any other
2 provision of law, no organization or other person
3 may challenge a suspension under paragraph (1), a
4 designation or identification described in paragraph
5 (2), the period of suspension described in paragraph
6 (3), or a denial of a deduction under paragraph (4)
7 in any administrative or judicial proceeding relating
8 to the Federal tax liability of such organization or
9 other person.

10 “(6) ERRONEOUS DESIGNATION.—

11 “(A) IN GENERAL.—If—

12 “(i) the tax exemption of any organi-
13 zation described in paragraph (2) is sus-
14 pended under paragraph (1),

15 “(ii) each designation and identifica-
16 tion described in paragraph (2) which has
17 been made with respect to such organiza-
18 tion is determined to be erroneous pursu-
19 ant to the law or Executive order under
20 which such designation or identification
21 was made, and

22 “(iii) the erroneous designations and
23 identifications result in an overpayment of
24 income tax for any taxable year by such
25 organization,



1 credit or refund (with interest) with respect to
2 such overpayment shall be made.

3 “(B) WAIVER OF LIMITATIONS.—If the
4 credit or refund of any overpayment of tax de-
5 scribed in subparagraph (A)(iii) is prevented at
6 any time by the operation of any law or rule of
7 law (including res judicata), such credit or re-
8 fund may nevertheless be allowed or made if the
9 claim therefor is filed before the close of the 1-
10 year period beginning on the date of the last
11 determination described in subparagraph
12 (A)(ii).

13 “(7) NOTICE OF SUSPENSIONS.—If the tax ex-
14 emption of any organization is suspended under this
15 subsection, the Internal Revenue Service shall up-
16 date the listings of tax-exempt organizations and
17 shall publish appropriate notice to taxpayers of such
18 suspension and of the fact that contributions to such
19 organization are not deductible during the period of
20 such suspension.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to designations made before, on,
23 or after the date of the enactment of this Act.



1 **SEC. 609. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT**
2 **TRAVEL EXPENSES OF NATIONAL GUARD**
3 **AND RESERVE MEMBERS.**

4 (a) DEDUCTION ALLOWED.—Section 162 (relating to
5 certain trade or business expenses) is amended by redesignig-
6 nating subsection (p) as subsection (q) and inserting after
7 subsection (o) the following new subsection:

8 “(p) TREATMENT OF EXPENSES OF MEMBERS OF
9 RESERVE COMPONENT OF ARMED FORCES OF THE
10 UNITED STATES.—For purposes of subsection (a)(2), in
11 the case of an individual who performs services as a mem-
12 ber of a reserve component of the Armed Forces of the
13 United States at any time during the taxable year, such
14 individual shall be deemed to be away from home in the
15 pursuit of a trade or business for any period during which
16 such individual is away from home in connection with such
17 service.”.

18 (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-
19 PAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating
20 to certain trade and business deductions of employees) is
21 amended by adding at the end the following new subpara-
22 graph:

23 “(E) CERTAIN EXPENSES OF MEMBERS OF
24 RESERVE COMPONENTS OF THE ARMED FORCES
25 OF THE UNITED STATES.—The deductions al-
26 lowed by section 162 which consist of expenses,



1 determined at a rate not in excess of the rates
2 for travel expenses (including per diem in lieu
3 of subsistence) authorized for employees of
4 agencies under subchapter I of chapter 57 of
5 title 5, United States Code, paid or incurred by
6 the taxpayer in connection with the perform-
7 ance of services by such taxpayer as a member
8 of a reserve component of the Armed Forces of
9 the United States for any period during which
10 such individual is more than 100 miles away
11 from home in connection with such services.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to amounts paid or incurred in tax-
14 able years beginning after December 31, 2002.

15 **SEC. 610. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF**
16 **SPACE SHUTTLE COLUMBIA HEROES.**

17 (a) INCOME TAX RELIEF.—

18 (1) IN GENERAL.—Subsection (d) of section
19 692 (relating to income taxes of members of Armed
20 Forces and victims of certain terrorist attacks on
21 death) is amended by adding at the end the fol-
22 lowing new paragraph:

23 “(5) RELIEF WITH RESPECT TO ASTRO-
24 NAUTS.—The provisions of this subsection shall
25 apply to any astronaut whose death occurs in the



1 line of duty, except that paragraph (3)(B) shall be
2 applied by using the date of the death of the astro-
3 naut rather than September 11, 2001.”.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 5(b)(1) is amended by insert-
6 ing “, astronauts,” after “Forces”.

7 (B) Section 6013(f)(2)(B) is amended by
8 inserting “, astronauts,” after “Forces”.

9 (3) CLERICAL AMENDMENTS.—

10 (A) The heading of section 692 is amended
11 by inserting “, **ASTRONAUTS,**” after
12 “**FORCES**”.

13 (B) The item relating to section 692 in the
14 table of sections for part II of subchapter J of
15 chapter 1 is amended by inserting “, astro-
16 nauts,” after “Forces”.

17 (4) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply with respect to any as-
19 tronaut whose death occurs after December 31,
20 2002.

21 (b) DEATH BENEFIT RELIEF.—

22 (1) IN GENERAL.—Subsection (i) of section 101
23 (relating to certain death benefits) is amended by
24 adding at the end the following new paragraph:



1 “(4) RELIEF WITH RESPECT TO ASTRO-
2 NAUTS.—The provisions of this subsection shall
3 apply to any astronaut whose death occurs in the
4 line of duty.”.

5 (2) CLERICAL AMENDMENT.—The heading for
6 subsection (i) of section 101 is amended by inserting
7 “OR ASTRONAUTS” after “VICTIMS”.

8 (3) EFFECTIVE DATE.—The amendments made
9 by this subsection shall apply to amounts paid after
10 December 31, 2002, with respect to deaths occurring
11 after such date.

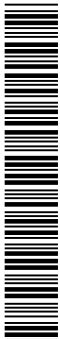
12 (c) ESTATE TAX RELIEF.—

13 (1) IN GENERAL.—Section 2201(b) (defining
14 qualified decedent) is amended by striking “and” at
15 the end of paragraph (1)(B), by striking the period
16 at the end of paragraph (2) and inserting “, and”,
17 and by adding at the end the following new para-
18 graph:

19 “(3) any astronaut whose death occurs in the
20 line of duty.”.

21 (2) CLERICAL AMENDMENTS.—

22 (A) The heading of section 2201 is amend-
23 ed by inserting “, **DEATHS OF ASTRO-**
24 **NAUTS,**” after “**FORCES**”.



1 (B) The item relating to section 2201 in
2 the table of sections for subchapter C of chap-
3 ter 11 is amended by inserting “, deaths of as-
4 tronauts,” after “Forces”.

5 (3) EFFECTIVE DATE.—The amendments made
6 by this subsection shall apply to estates of decedents
7 dying after December 31, 2002.

8 **TITLE VII—OTHER PROVISIONS**

9 **SEC. 701. REVISION OF TAX RULES ON EXPATRIATION.**

10 (a) IN GENERAL.—Subpart A of part II of sub-
11 chapter N of chapter 1 is amended by inserting after sec-
12 tion 877 the following new section:

13 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

14 “(a) GENERAL RULES.—For purposes of this
15 subtitle—

16 “(1) MARK TO MARKET.—Except as provided in
17 subsections (d) and (f), all property of a covered ex-
18 patriate to whom this section applies shall be treated
19 as sold on the day before the expatriation date for
20 its fair market value.

21 “(2) RECOGNITION OF GAIN OR LOSS.—In the
22 case of any sale under paragraph (1)—

23 “(A) notwithstanding any other provision
24 of this title, any gain arising from such sale



1 shall be taken into account for the taxable year
2 of the sale, and

3 “(B) any loss arising from such sale shall
4 be taken into account for the taxable year of
5 the sale to the extent otherwise provided by this
6 title, except that section 1091 shall not apply to
7 any such loss.

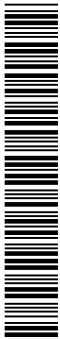
8 Proper adjustment shall be made in the amount of
9 any gain or loss subsequently realized for gain or
10 loss taken into account under the preceding sen-
11 tence.

12 “(3) EXCLUSION FOR CERTAIN GAIN.—

13 “(A) IN GENERAL.—The amount which,
14 but for this paragraph, would be includible in
15 the gross income of any individual by reason of
16 this section shall be reduced (but not below
17 zero) by \$600,000. For purposes of this para-
18 graph, allocable expatriation gain taken into ac-
19 count under subsection (f)(2) shall be treated in
20 the same manner as an amount required to be
21 includible in gross income.

22 “(B) COST-OF-LIVING ADJUSTMENT.—

23 “(i) IN GENERAL.—In the case of an
24 expatriation date occurring in any calendar
25 year after 2003, the \$600,000 amount



1 under subparagraph (A) shall be increased
2 by an amount equal to—

3 “(I) such dollar amount, multi-
4 plied by

5 “(II) the cost-of-living adjust-
6 ment determined under section 1(f)(3)
7 for such calendar year, determined by
8 substituting ‘calendar year 2002’ for
9 ‘calendar year 1992’ in subparagraph
10 (B) thereof.

11 “(ii) ROUNDING RULES.—If any
12 amount after adjustment under clause (i)
13 is not a multiple of \$1,000, such amount
14 shall be rounded to the next lower multiple
15 of \$1,000.

16 “(4) ELECTION TO CONTINUE TO BE TAXED AS
17 UNITED STATES CITIZEN.—

18 “(A) IN GENERAL.—If a covered expatriate
19 elects the application of this paragraph—

20 “(i) this section (other than this para-
21 graph and subsection (i)) shall not apply to
22 the expatriate, but

23 “(ii) in the case of property to which
24 this section would apply but for such elec-
25 tion, the expatriate shall be subject to tax



1 under this title in the same manner as if
2 the individual were a United States citizen.

3 “(B) REQUIREMENTS.—Subparagraph (A)
4 shall not apply to an individual unless the
5 individual—

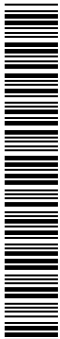
6 “(i) provides security for payment of
7 tax in such form and manner, and in such
8 amount, as the Secretary may require,

9 “(ii) consents to the waiver of any
10 right of the individual under any treaty of
11 the United States which would preclude as-
12 sessment or collection of any tax which
13 may be imposed by reason of this para-
14 graph, and

15 “(iii) complies with such other re-
16 quirements as the Secretary may prescribe.

17 “(C) ELECTION.—An election under sub-
18 paragraph (A) shall apply to all property to
19 which this section would apply but for the elec-
20 tion and, once made, shall be irrevocable. Such
21 election shall also apply to property the basis of
22 which is determined in whole or in part by ref-
23 erence to the property with respect to which the
24 election was made.

25 “(b) ELECTION TO DEFER TAX.—



1 “(1) IN GENERAL.—If the taxpayer elects the
2 application of this subsection with respect to any
3 property treated as sold by reason of subsection (a),
4 the payment of the additional tax attributable to
5 such property shall be postponed until the due date
6 of the return for the taxable year in which such
7 property is disposed of (or, in the case of property
8 disposed of in a transaction in which gain is not rec-
9 ognized in whole or in part, until such other date as
10 the Secretary may prescribe).

11 “(2) DETERMINATION OF TAX WITH RESPECT
12 TO PROPERTY.—For purposes of paragraph (1), the
13 additional tax attributable to any property is an
14 amount which bears the same ratio to the additional
15 tax imposed by this chapter for the taxable year
16 solely by reason of subsection (a) as the gain taken
17 into account under subsection (a) with respect to
18 such property bears to the total gain taken into ac-
19 count under subsection (a) with respect to all prop-
20 erty to which subsection (a) applies.

21 “(3) TERMINATION OF POSTPONEMENT.—No
22 tax may be postponed under this subsection later
23 than the due date for the return of tax imposed by
24 this chapter for the taxable year which includes the
25 date of death of the expatriate (or, if earlier, the



1 time that the security provided with respect to the
2 property fails to meet the requirements of paragraph
3 (4), unless the taxpayer corrects such failure within
4 the time specified by the Secretary).

5 “(4) SECURITY.—

6 “(A) IN GENERAL.—No election may be
7 made under paragraph (1) with respect to any
8 property unless adequate security is provided to
9 the Secretary with respect to such property.

10 “(B) ADEQUATE SECURITY.—For purposes
11 of subparagraph (A), security with respect to
12 any property shall be treated as adequate secu-
13 rity if—

14 “(i) it is a bond in an amount equal
15 to the deferred tax amount under para-
16 graph (2) for the property, or

17 “(ii) the taxpayer otherwise estab-
18 lishes to the satisfaction of the Secretary
19 that the security is adequate.

20 “(5) WAIVER OF CERTAIN RIGHTS.—No elec-
21 tion may be made under paragraph (1) unless the
22 taxpayer consents to the waiver of any right under
23 any treaty of the United States which would pre-
24 clude assessment or collection of any tax imposed by
25 reason of this section.



1 “(6) ELECTIONS.—An election under paragraph
2 (1) shall only apply to property described in the elec-
3 tion and, once made, is irrevocable. An election may
4 be made under paragraph (1) with respect to an in-
5 terest in a trust with respect to which gain is re-
6 quired to be recognized under subsection (f)(1).

7 “(7) INTEREST.—For purposes of section
8 6601—

9 “(A) the last date for the payment of tax
10 shall be determined without regard to the elec-
11 tion under this subsection, and

12 “(B) section 6621(a)(2) shall be applied by
13 substituting ‘5 percentage points’ for ‘3 per-
14 centage points’ in subparagraph (B) thereof.

15 “(c) COVERED EXPATRIATE.—For purposes of this
16 section—

17 “(1) IN GENERAL.—Except as provided in para-
18 graph (2), the term ‘covered expatriate’ means an
19 expatriate.

20 “(2) EXCEPTIONS.—An individual shall not be
21 treated as a covered expatriate if—

22 “(A) the individual—

23 “(i) became at birth a citizen of the
24 United States and a citizen of another
25 country and, as of the expatriation date,



1 continues to be a citizen of, and is taxed
2 as a resident of, such other country, and

3 “(ii) has not been a resident of the
4 United States (as defined in section
5 7701(b)(1)(A)(ii)) during the 5 taxable
6 years ending with the taxable year during
7 which the expatriation date occurs, or

8 “(B)(i) the individual’s relinquishment of
9 United States citizenship occurs before such in-
10 dividual attains age 18½, and

11 “(ii) the individual has been a resident of
12 the United States (as so defined) for not more
13 than 5 taxable years before the date of relin-
14 quishment.

15 “(d) EXEMPT PROPERTY; SPECIAL RULES FOR PEN-
16 SION PLANS.—

17 “(1) EXEMPT PROPERTY.—This section shall
18 not apply to the following:

19 “(A) UNITED STATES REAL PROPERTY IN-
20 TERESTS.—Any United States real property in-
21 terest (as defined in section 897(c)(1)), other
22 than stock of a United States real property
23 holding corporation which does not, on the day
24 before the expatriation date, meet the require-
25 ments of section 897(c)(2).



1 “(B) SPECIFIED PROPERTY.—Any prop-
2 erty or interest in property not described in
3 subparagraph (A) which the Secretary specifies
4 in regulations.

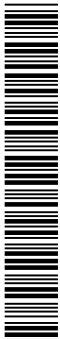
5 “(2) SPECIAL RULES FOR CERTAIN RETIRE-
6 MENT PLANS.—

7 “(A) IN GENERAL.—If a covered expatriate
8 holds on the day before the expatriation date
9 any interest in a retirement plan to which this
10 paragraph applies—

11 “(i) such interest shall not be treated
12 as sold for purposes of subsection (a)(1),
13 but

14 “(ii) an amount equal to the present
15 value of the expatriate’s nonforfeitable ac-
16 crued benefit shall be treated as having
17 been received by such individual on such
18 date as a distribution under the plan.

19 “(B) TREATMENT OF SUBSEQUENT DIS-
20 TRIBUTIONS.—In the case of any distribution
21 on or after the expatriation date to or on behalf
22 of the covered expatriate from a plan from
23 which the expatriate was treated as receiving a
24 distribution under subparagraph (A), the
25 amount otherwise includible in gross income by



1 reason of the subsequent distribution shall be
2 reduced by the excess of the amount includible
3 in gross income under subparagraph (A) over
4 any portion of such amount to which this sub-
5 paragraph previously applied.

6 “(C) TREATMENT OF SUBSEQUENT DIS-
7 TRIBUTIONS BY PLAN.—For purposes of this
8 title, a retirement plan to which this paragraph
9 applies, and any person acting on the plan’s be-
10 half, shall treat any subsequent distribution de-
11 scribed in subparagraph (B) in the same man-
12 ner as such distribution would be treated with-
13 out regard to this paragraph.

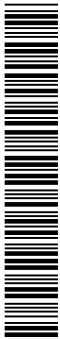
14 “(D) APPLICABLE PLANS.—This para-
15 graph shall apply to—

16 “(i) any qualified retirement plan (as
17 defined in section 4974(c)),

18 “(ii) an eligible deferred compensation
19 plan (as defined in section 457(b)) of an
20 eligible employer described in section
21 457(e)(1)(A), and

22 “(iii) to the extent provided in regula-
23 tions, any foreign pension plan or similar
24 retirement arrangements or programs.

25 “(e) DEFINITIONS.—For purposes of this section—



1 “(1) EXPATRIATE.—The term ‘expatriate’
2 means—

3 “(A) any United States citizen who relin-
4 quishes citizenship, and

5 “(B) any long-term resident of the United
6 States who—

7 “(i) ceases to be a lawful permanent
8 resident of the United States (within the
9 meaning of section 7701(b)(6)), or

10 “(ii) commences to be treated as a
11 resident of a foreign country under the
12 provisions of a tax treaty between the
13 United States and the foreign country and
14 who does not waive the benefits of such
15 treaty applicable to residents of the foreign
16 country.

17 “(2) EXPATRIATION DATE.—The term ‘expa-
18 triation date’ means—

19 “(A) the date an individual relinquishes
20 United States citizenship, or

21 “(B) in the case of a long-term resident of
22 the United States, the date of the event de-
23 scribed in clause (i) or (ii) of paragraph (1)(B).



1 “(3) RELINQUISHMENT OF CITIZENSHIP.—A
2 citizen shall be treated as relinquishing United
3 States citizenship on the earliest of—

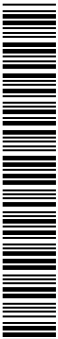
4 “(A) the date the individual renounces
5 such individual’s United States nationality be-
6 fore a diplomatic or consular officer of the
7 United States pursuant to paragraph (5) of sec-
8 tion 349(a) of the Immigration and Nationality
9 Act (8 U.S.C. 1481(a)(5)),

10 “(B) the date the individual furnishes to
11 the United States Department of State a signed
12 statement of voluntary relinquishment of
13 United States nationality confirming the per-
14 formance of an act of expatriation specified in
15 paragraph (1), (2), (3), or (4) of section 349(a)
16 of the Immigration and Nationality Act (8
17 U.S.C. 1481(a)(1)–(4)),

18 “(C) the date the United States Depart-
19 ment of State issues to the individual a certifi-
20 cate of loss of nationality, or

21 “(D) the date a court of the United States
22 cancels a naturalized citizen’s certificate of nat-
23 uralization.

24 Subparagraph (A) or (B) shall not apply to any indi-
25 vidual unless the renunciation or voluntary relin-



1 quishment is subsequently approved by the issuance
2 to the individual of a certificate of loss of nationality
3 by the United States Department of State.

4 “(4) LONG-TERM RESIDENT.—The term ‘long-
5 term resident’ has the meaning given to such term
6 by section 877(e)(2).

7 “(f) SPECIAL RULES APPLICABLE TO BENE-
8 FICIARIES’ INTERESTS IN TRUST.—

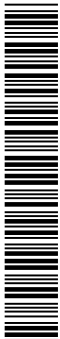
9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), if an individual is determined under para-
11 graph (3) to hold an interest in a trust on the day
12 before the expatriation date—

13 “(A) the individual shall not be treated as
14 having sold such interest,

15 “(B) such interest shall be treated as a
16 separate share in the trust, and

17 “(C)(i) such separate share shall be treat-
18 ed as a separate trust consisting of the assets
19 allocable to such share,

20 “(ii) the separate trust shall be treated as
21 having sold its assets on the day before the ex-
22 patriation date for their fair market value and
23 as having distributed all of its assets to the in-
24 dividual as of such time, and



1 “(iii) the individual shall be treated as hav-
2 ing recontributed the assets to the separate
3 trust.

4 Subsection (a)(2) shall apply to any income, gain, or
5 loss of the individual arising from a distribution de-
6 scribed in subparagraph (C)(ii). In determining the
7 amount of such distribution, proper adjustments
8 shall be made for liabilities of the trust allocable to
9 an individual’s share in the trust.

10 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
11 FIED TRUSTS.—

12 “(A) IN GENERAL.—If the trust interest
13 described in paragraph (1) is an interest in a
14 qualified trust—

15 “(i) paragraph (1) and subsection (a)
16 shall not apply, and

17 “(ii) in addition to any other tax im-
18 posed by this title, there is hereby imposed
19 on each distribution with respect to such
20 interest a tax in the amount determined
21 under subparagraph (B).

22 “(B) AMOUNT OF TAX.—The amount of
23 tax under subparagraph (A)(ii) shall be equal to
24 the lesser of—



1 “(i) the highest rate of tax imposed by
2 section 1(e) for the taxable year which in-
3 cludes the day before the expatriation date,
4 multiplied by the amount of the distribu-
5 tion, or

6 “(ii) the balance in the deferred tax
7 account immediately before the distribution
8 determined without regard to any increases
9 under subparagraph (C)(ii) after the 30th
10 day preceding the distribution.

11 “(C) DEFERRED TAX ACCOUNT.—For pur-
12 poses of subparagraph (B)(ii)—

13 “(i) OPENING BALANCE.—The open-
14 ing balance in a deferred tax account with
15 respect to any trust interest is an amount
16 equal to the tax which would have been im-
17 posed on the allocable expatriation gain
18 with respect to the trust interest if such
19 gain had been included in gross income
20 under subsection (a).

21 “(ii) INCREASE FOR INTEREST.—The
22 balance in the deferred tax account shall
23 be increased by the amount of interest de-
24 termined (on the balance in the account at
25 the time the interest accrues), for periods



1 after the 90th day after the expatriation
2 date, by using the rates and method appli-
3 cable under section 6621 for underpay-
4 ments of tax for such periods, except that
5 section 6621(a)(2) shall be applied by sub-
6 stituting ‘5 percentage points’ for ‘3 per-
7 centage points’ in subparagraph (B) there-
8 of.

9 “(iii) DECREASE FOR TAXES PRE-
10 VIOUSLY PAID.—The balance in the tax de-
11 ferred account shall be reduced—

12 “(I) by the amount of taxes im-
13 posed by subparagraph (A) on any
14 distribution to the person holding the
15 trust interest, and

16 “(II) in the case of a person
17 holding a nonvested interest, to the
18 extent provided in regulations, by the
19 amount of taxes imposed by subpara-
20 graph (A) on distributions from the
21 trust with respect to nonvested inter-
22 ests not held by such person.

23 “(D) ALLOCABLE EXPATRIATION GAIN.—
24 For purposes of this paragraph, the allocable
25 expatriation gain with respect to any bene-



1 ficiary's interest in a trust is the amount of
2 gain which would be allocable to such bene-
3 ficiary's vested and nonvested interests in the
4 trust if the beneficiary held directly all assets
5 allocable to such interests.

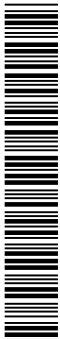
6 “(E) TAX DEDUCTED AND WITHHELD.—

7 “(i) IN GENERAL.—The tax imposed
8 by subparagraph (A)(ii) shall be deducted
9 and withheld by the trustees from the dis-
10 tribution to which it relates.

11 “(ii) EXCEPTION WHERE FAILURE TO
12 WAIVE TREATY RIGHTS.—If an amount
13 may not be deducted and withheld under
14 clause (i) by reason of the distributee fail-
15 ing to waive any treaty right with respect
16 to such distribution—

17 “(I) the tax imposed by subpara-
18 graph (A)(ii) shall be imposed on the
19 trust and each trustee shall be person-
20 ally liable for the amount of such tax,
21 and

22 “(II) any other beneficiary of the
23 trust shall be entitled to recover from
24 the distributee the amount of such tax
25 imposed on the other beneficiary.



1 “(F) DISPOSITION.—If a trust ceases to be
2 a qualified trust at any time, a covered expa-
3 triate disposes of an interest in a qualified
4 trust, or a covered expatriate holding an inter-
5 est in a qualified trust dies, then, in lieu of the
6 tax imposed by subparagraph (A)(ii), there is
7 hereby imposed a tax equal to the lesser of—

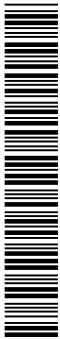
8 “(i) the tax determined under para-
9 graph (1) as if the day before the expatria-
10 tion date were the date of such cessation,
11 disposition, or death, whichever is applica-
12 ble, or

13 “(ii) the balance in the tax deferred
14 account immediately before such date.

15 Such tax shall be imposed on the trust and
16 each trustee shall be personally liable for the
17 amount of such tax and any other beneficiary
18 of the trust shall be entitled to recover from the
19 covered expatriate or the estate the amount of
20 such tax imposed on the other beneficiary.

21 “(G) DEFINITIONS AND SPECIAL RULES.—
22 For purposes of this paragraph—

23 “(i) QUALIFIED TRUST.—The term
24 ‘qualified trust’ means a trust which is de-
25 scribed in section 7701(a)(30)(E).



1 “(ii) VESTED INTEREST.—The term
2 ‘vested interest’ means any interest which,
3 as of the day before the expatriation date,
4 is vested in the beneficiary.

5 “(iii) NONVESTED INTEREST.—The
6 term ‘nonvested interest’ means, with re-
7 spect to any beneficiary, any interest in a
8 trust which is not a vested interest. Such
9 interest shall be determined by assuming
10 the maximum exercise of discretion in
11 favor of the beneficiary and the occurrence
12 of all contingencies in favor of the bene-
13 ficiary.

14 “(iv) ADJUSTMENTS.—The Secretary
15 may provide for such adjustments to the
16 bases of assets in a trust or a deferred tax
17 account, and the timing of such adjust-
18 ments, in order to ensure that gain is
19 taxed only once.

20 “(v) COORDINATION WITH RETIRE-
21 MENT PLAN RULES.—This subsection shall
22 not apply to an interest in a trust which
23 is part of a retirement plan to which sub-
24 section (d)(2) applies.



1 “(3) DETERMINATION OF BENEFICIARIES’ IN-
2 TEREST IN TRUST.—

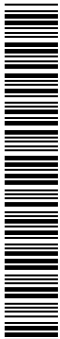
3 “(A) DETERMINATIONS UNDER PARA-
4 GRAPH (1).—For purposes of paragraph (1), a
5 beneficiary’s interest in a trust shall be based
6 upon all relevant facts and circumstances, in-
7 cluding the terms of the trust instrument and
8 any letter of wishes or similar document, histor-
9 ical patterns of trust distributions, and the ex-
10 istence of and functions performed by a trust
11 protector or any similar adviser.

12 “(B) OTHER DETERMINATIONS.—For pur-
13 poses of this section—

14 “(i) CONSTRUCTIVE OWNERSHIP.—If
15 a beneficiary of a trust is a corporation,
16 partnership, trust, or estate, the share-
17 holders, partners, or beneficiaries shall be
18 deemed to be the trust beneficiaries for
19 purposes of this section.

20 “(ii) TAXPAYER RETURN POSITION.—
21 A taxpayer shall clearly indicate on its in-
22 come tax return—

23 “(I) the methodology used to de-
24 termine that taxpayer’s trust interest
25 under this section, and



1 “(II) if the taxpayer knows (or
2 has reason to know) that any other
3 beneficiary of such trust is using a
4 different methodology to determine
5 such beneficiary’s trust interest under
6 this section.

7 “(g) TERMINATION OF DEFERRALS, ETC.—In the
8 case of any covered expatriate, notwithstanding any other
9 provision of this title—

10 “(1) any period during which recognition of in-
11 come or gain is deferred shall terminate on the day
12 before the expatriation date, and

13 “(2) any extension of time for payment of tax
14 shall cease to apply on the day before the expatria-
15 tion date and the unpaid portion of such tax shall
16 be due and payable at the time and in the manner
17 prescribed by the Secretary.

18 “(h) IMPOSITION OF TENTATIVE TAX.—

19 “(1) IN GENERAL.—If an individual is required
20 to include any amount in gross income under sub-
21 section (a) for any taxable year, there is hereby im-
22 posed, immediately before the expatriation date, a
23 tax in an amount equal to the amount of tax which
24 would be imposed if the taxable year were a short
25 taxable year ending on the expatriation date.



1 “(2) DUE DATE.—The due date for any tax im-
2 posed by paragraph (1) shall be the 90th day after
3 the expatriation date.

4 “(3) TREATMENT OF TAX.—Any tax paid under
5 paragraph (1) shall be treated as a payment of the
6 tax imposed by this chapter for the taxable year to
7 which subsection (a) applies.

8 “(4) DEFERRAL OF TAX.—The provisions of
9 subsection (b) shall apply to the tax imposed by this
10 subsection to the extent attributable to gain includ-
11 ible in gross income by reason of this section.

12 “(i) SPECIAL LIENS FOR DEFERRED TAX
13 AMOUNTS.—

14 “(1) IMPOSITION OF LIEN.—

15 “(A) IN GENERAL.—If a covered expatriate
16 makes an election under subsection (a)(4) or
17 (b) which results in the deferral of any tax im-
18 posed by reason of subsection (a), the deferred
19 amount (including any interest, additional
20 amount, addition to tax, assessable penalty, and
21 costs attributable to the deferred amount) shall
22 be a lien in favor of the United States on all
23 property of the expatriate located in the United
24 States (without regard to whether this section
25 applies to the property).



1 “(B) DEFERRED AMOUNT.—For purposes
2 of this subsection, the deferred amount is the
3 amount of the increase in the covered expatri-
4 ate’s income tax which, but for the election
5 under subsection (a)(4) or (b), would have oc-
6 curred by reason of this section for the taxable
7 year including the expatriation date.

8 “(2) PERIOD OF LIEN.—The lien imposed by
9 this subsection shall arise on the expatriation date
10 and continue until—

11 “(A) the liability for tax by reason of this
12 section is satisfied or has become unenforceable
13 by reason of lapse of time, or

14 “(B) it is established to the satisfaction of
15 the Secretary that no further tax liability may
16 arise by reason of this section.

17 “(3) CERTAIN RULES APPLY.—The rules set
18 forth in paragraphs (1), (3), and (4) of section
19 6324A(d) shall apply with respect to the lien im-
20 posed by this subsection as if it were a lien imposed
21 by section 6324A.

22 “(j) REGULATIONS.—The Secretary shall prescribe
23 such regulations as may be necessary or appropriate to
24 carry out the purposes of this section.”.



1 (b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS
2 RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS
3 FROM EXPATRIATES.—Section 102 (relating to gifts, etc.
4 not included in gross income) is amended by adding at
5 the end the following new subsection:

6 “(d) GIFTS AND INHERITANCES FROM COVERED EX-
7 PATRIATES.—

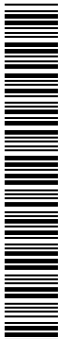
8 “(1) IN GENERAL.—Subsection (a) shall not ex-
9 clude from gross income the value of any property
10 acquired by gift, bequest, devise, or inheritance from
11 a covered expatriate after the expatriation date. For
12 purposes of this subsection, any term used in this
13 subsection which is also used in section 877A shall
14 have the same meaning as when used in section
15 877A.

16 “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE
17 SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1)
18 shall not apply to any property if either—

19 “(A) the gift, bequest, devise, or inherit-
20 ance is—

21 “(i) shown on a timely filed return of
22 tax imposed by chapter 12 as a taxable gift
23 by the covered expatriate, or

24 “(ii) included in the gross estate of
25 the covered expatriate for purposes of



1 chapter 11 and shown on a timely filed re-
2 turn of tax imposed by chapter 11 of the
3 estate of the covered expatriate, or

4 “(B) no such return was timely filed but
5 no such return would have been required to be
6 filed even if the covered expatriate were a cit-
7 izen or long-term resident of the United
8 States.”.

9 (c) DEFINITION OF TERMINATION OF UNITED
10 STATES CITIZENSHIP.—Section 7701(a) is amended by
11 adding at the end the following new paragraph:

12 “(48) TERMINATION OF UNITED STATES CITI-
13 ZENSHIP.—

14 “(A) IN GENERAL.—An individual shall
15 not cease to be treated as a United States cit-
16 izen before the date on which the individual’s
17 citizenship is treated as relinquished under sec-
18 tion 877A(e)(3).

19 “(B) DUAL CITIZENS.—Under regulations
20 prescribed by the Secretary, subparagraph (A)
21 shall not apply to an individual who became at
22 birth a citizen of the United States and a cit-
23 izen of another country.”.

24 (d) INELIGIBILITY FOR VISA OR ADMISSION TO
25 UNITED STATES.—



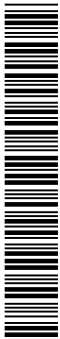
1 (1) IN GENERAL.—Section 212(a)(10)(E) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1182(a)(10)(E)) is amended to read as follows:

4 “(E) FORMER CITIZENS NOT IN COMPLI-
5 ANCE WITH EXPATRIATION REVENUE PROVI-
6 SIONS.—Any alien who is a former citizen of
7 the United States who relinquishes United
8 States citizenship (within the meaning of sec-
9 tion 877A(e)(3) of the Internal Revenue Code
10 of 1986) and who is not in compliance with sec-
11 tion 877A of such Code (relating to expatria-
12 tion).”.

13 (2) AVAILABILITY OF INFORMATION.—

14 (A) IN GENERAL.—Section 6103(l) (relat-
15 ing to disclosure of returns and return informa-
16 tion for purposes other than tax administration)
17 is amended by adding at the end the following
18 new paragraph:

19 “(19) DISCLOSURE TO DENY VISA OR ADMIS-
20 SION TO CERTAIN EXPATRIATES.—Upon written re-
21 quest of the Attorney General or the Attorney Gen-
22 eral’s delegate, the Secretary shall disclose whether
23 an individual is in compliance with section 877A
24 (and if not in compliance, any items of noncompli-
25 ance) to officers and employees of the Federal agen-



1 cy responsible for administering section
2 212(a)(10)(E) of the Immigration and Nationality
3 Act solely for the purpose of, and to the extent nec-
4 essary in, administering such section
5 212(a)(10)(E).”.

6 (B) SAFEGUARDS.—

7 (i) TECHNICAL AMENDMENTS.—Para-
8 graph (4) of section 6103(p) of the Inter-
9 nal Revenue Code of 1986, as amended by
10 section 202(b)(2)(B) of the Trade Act of
11 2002 (Public Law 107–210; 116 Stat.
12 961), is amended by striking “or (17)”
13 after “any other person described in sub-
14 section (l)(16)” each place it appears and
15 inserting “or (18)”.

16 (ii) CONFORMING AMENDMENTS.—
17 Section 6103(p)(4) (relating to safe-
18 guards), as amended by clause (i), is
19 amended by striking “or (18)” after “any
20 other person described in subsection
21 (l)(16)” each place it appears and insert-
22 ing “(18), or (19)”.

23 (3) EFFECTIVE DATES.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraph (B), the amendments made by



1 this subsection shall apply to individuals who
2 relinquish United States citizenship on or after
3 the date of the enactment of this Act.

4 (B) TECHNICAL AMENDMENTS.—The
5 amendments made by paragraph (2)(B)(i) shall
6 take effect as if included in the amendments
7 made by section 202(b)(2)(B) of the Trade Act
8 of 2002 (Public Law 107–210; 116 Stat. 961).

9 (e) CONFORMING AMENDMENTS.—

10 (1) Section 877 is amended by adding at the
11 end the following new subsection:

12 “(g) APPLICATION.—This section shall not apply to
13 an expatriate (as defined in section 877A(e)) whose expa-
14 triation date (as so defined) occurs on or after February
15 5, 2003.”.

16 (2) Section 2107 is amended by adding at the
17 end the following new subsection:

18 “(f) APPLICATION.—This section shall not apply to
19 any expatriate subject to section 877A.”.

20 (3) Section 2501(a)(3) is amended by adding at
21 the end the following new subparagraph:

22 “(F) APPLICATION.—This paragraph shall
23 not apply to any expatriate subject to section
24 877A.”.



1 (4)(A) Paragraph (1) of section 6039G(d) is
2 amended by inserting “or 877A” after “section
3 877”.

4 (B) The second sentence of section 6039G(e) is
5 amended by inserting “or who relinquishes United
6 States citizenship (within the meaning of section
7 877A(e)(3))” after “877(a)”.

8 (C) Section 6039G(f) is amended by inserting
9 “or 877A(e)(2)(B)” after “877(e)(1)”.

10 (f) CLERICAL AMENDMENT.—The table of sections
11 for subpart A of part II of subchapter N of chapter 1
12 is amended by inserting after the item relating to section
13 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”.

14 (g) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in this
16 subsection, the amendments made by this section
17 shall apply to expatriates (within the meaning of
18 section 877A(e) of the Internal Revenue Code of
19 1986, as added by this section) whose expatriation
20 date (as so defined) occurs on or after February 5,
21 2003.

22 (2) GIFTS AND BEQUESTS.—Section 102(d) of
23 the Internal Revenue Code of 1986 (as added by
24 subsection (b)) shall apply to gifts and bequests re-
25 ceived on or after February 5, 2003, from an indi-



1 vidual or the estate of an individual whose expatria-
2 tion date (as so defined) occurs after such date.

3 (3) DUE DATE FOR TENTATIVE TAX.—The due
4 date under section 877A(h)(2) of the Internal Rev-
5 enue Code of 1986, as added by this section, shall
6 in no event occur before the 90th day after the date
7 of the enactment of this Act.

8 **SEC. 702. EXTENSION OF CUSTOMS USER FEES.**

9 Section 13031(j)(3) of the Consolidated Omnibus
10 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3))
11 is amended by striking “September 30, 2003” and insert-
12 ing “March 31, 2010”.

